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1 IN THE SENATE

BY THE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 187 (2d HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption; and providing for an
7 effective date."

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

9 * Section 1. AS 13.11.045 is amended to read:

10 Sec. 13.11.045. MEANING OF "CHILD" AND RELATED TERMS. If, for
11 purposes of intestate succession, a relationship of parent and child
12 must be established to determine succession by, through, or from a
13 person,

14 (1) an adopted person is the child of an adopting parent
15 and not of the natural parents unless the decree of adoption
16 specifically provides for the continuation of inheritance rights
17 [EXCEPT THAT ADOPTION OF A CHILD BY THE SPOUSE OF A NATURAL PARENT HAS
18 NO EFFECT ON THE RELATIONSHIP BETWEEN THE CHILD AND EITHER NATURAL
19 PARENT];

20 (2) in cases not covered by (1) of this section, a person
21 born out of wedlock is a child of the mother; that person is also a
22 child of the father, if:

23 (A) the natural parents participated in a marriage
24 ceremony before or after the birth of the child, even though the
25 attempted marriage is void; or

26 (B) the paternity is established by an adjudication
27 before the death of the father or is established thereafter by
28 clear and convincing proof, except that the paternity established
29 under this subparagraph is ineffective to qualify the father or

1 the father's kindred to inherit from or through the child unless
2 the father has openly treated the child as the father's, and has
3 not refused to support the child.

4 * Sec. 2. AS 18.50.220(b) is amended to read:

5 (b) When a new certificate of birth is established, the actual
6 place and date of birth shall be shown. The new certificate shall be
7 substituted for the original certificate of birth, and

8 (1) thereafter, the original certificate and the evidence
9 of adoption or legitimation are not subject to inspection except upon
10 order of the superior court under AS 25.23.150; however, the state
11 registrar [OR AS PROVIDED BY REGULATION; HOWEVER, THE REGULATION]
12 shall allow inspection by an agent of the state or federal government
13 acting in the performance of the agent's [HIS] official duties;

14 (2) upon receipt of a report that an adoption has been
15 vacated, the original certificate of birth shall be restored to its
16 place in the files and the new certificate and evidence are not sub-
17 ject to inspection except upon order of a superior court.

18 * Sec. 3. AS 18.50.370 is amended by adding new paragraphs to read:

19 (14) "adoptive parent" means a person who has adopted another
20 person under AS 25.23;

21 (15) "biological parent" means a parent named on the original
22 certificate of birth of an adopted person;

23 (16) "child adoption agency" means a child adoption agency
24 licensed under AS 47.35.100;

25 (17) "commissioner" means the commissioner of health and
26 social services;

27 (18) "medical history" includes information relating to a
28 person's medical conditions and treatment, immunization records, and
29 other medical information about the person that could be important to

1 the health care of the adopted person.

2 * Sec. 4. AS 18.50 is amended by adding new sections to read:

3 ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

4 Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Except as
5 provided in (b) of this section, upon receiving a request by an adopt-
6 ed person 18 years of age or older for the identity of a biological
7 parent of the person, the state registrar shall provide the person
8 with an uncertified copy of the person's original birth certificate,
9 and any change in the parent's name or address attached to the certifi-
10 cate, if

11 (1) the biological parent's consent to disclosure is on
12 file with the state registrar; or

13 (2) a written objection to disclosure is not received from
14 the biological parent within 90 days after the state registrar sends a
15 notice of the request to the biological parent at the parent's most
16 current address contained in the state registrar's adoption records;
17 the notice shall be sent by certified mail, return receipt requested,
18 deliverable to the addressee only.

19 (b) The state registrar may not disclose the name and address of
20 a biological parent, except as required by the court under AS 25.23.-
21 150, if a written objection to disclosure under (a) of this section is
22 received from the biological parent

23 (1) when the adopted person is 17 years of age or older; or

24 (2) within 90 days after the date notice is mailed under
25 (a) of this section.

26 (c) If one biological parent agrees to disclosure, but the other
27 biological parent objects, the state registrar shall remove the name
28 of the objecting parent before providing the birth certificate to the
29 adopted person under (a) of this section.

1 (d) An adopted person 18 years of age or older or a biological
2 parent may submit to the state registrar a notice of change of name or
3 address. The state registrar shall attach the information to the
4 original birth certificate of the person or of the adopted child of
5 the biological parent. The state registrar shall disclose to a bio-
6 logical parent, upon request, the most current name and address of the
7 parent's child that appear in the state registrar's adoption files.

8 Sec. 18.50.510. DESCRIPTIVE INFORMATION REGARDING BIOLOGICAL
9 PARENTS. (a) The state registrar shall, at the request of an adop-
10 tive parent or of an adopted person 18 years of age or older, release
11 the following information regarding a biological parent named on the
12 original birth certificate of the adopted person if available from the
13 registrar's adoption records:

14 (1) the age of the biological parent on the day the adopted
15 person was born;

16 (2) the heritage of the biological parent, to include:

17 (A) national origin;

18 (B) ethnic background; and

19 (C) tribal membership;

20 (3) the medical history of the biological parent and of
21 blood relatives of the biological parent;

22 (4) the number of years of school completed by the biologi-
23 cal parent by the day the adopted person was born;

24 (5) a physical description of the biological parent on the
25 day the adopted person was born, including height, weight, and color
26 of hair, eyes and skin;

27 (6) the existence of other children of the biological
28 parent;

29 (7) whether the biological parent was alive at the time of

1 adoption;

2 (8) the religion of the biological parent; and

3 (9) other information provided by the biological parent for
4 disclosure to the child.

5 (b) Information released under (a) of this section shall be on a
6 standard form prepared by the commissioner. The information may not
7 include the name of a biological parent or other information not
8 listed in (a) of this section.

9 * Sec. 5. AS 25.23.060(a) is amended to read:

10 (a) The required consent to adoption shall be executed at any
11 time after the birth of the child in the presence of the court or in
12 the presence of a person authorized to take acknowledgments. The
13 consent is not valid unless

14 (1) the consent form states that the person consenting to
15 the adoption has the right to withdraw that consent as provided in
16 AS 25.23.070(b); and

17 (2) the person consenting to the adoption acknowledges
18 receipt of a copy of the consent form.

19 * Sec. 6. AS 25.23.060 is amended by adding a new subsection to read:

20 (c) A consent executed under this section is effective as a
21 power of attorney under AS 13.26.020. Unless the consent form pro-
22 vides otherwise, and regardless of whether the form names or iden-
23 tifies the adoptive parent, the consent delegates to the adoptive
24 parent all powers that may be delegated under AS 13.26.020. The power
25 of attorney takes effect when the child is delivered to the adoptive
26 parent, and remains in effect as long as the consent is in effect; but
27 the power of attorney is not effective beyond one year, unless the
28 court extends it for good cause. The power of attorney does not
29 terminate on the death or disability of the person executing the

1 consent, unless the consent form so states.

2 * Sec. 7. AS 25.23.070(b) is amended to read:

3 (b) A consent to adoption may be withdrawn before the entry of a
4 decree of adoption, within 10 days after the consent is given, by
5 delivering written notice to the person obtaining the consent, or
6 after the 10-day period, if the court finds, after notice and oppor-
7 tunity to be heard is afforded to petitioner, the person seeking the
8 withdrawal, and the agency placing a child for adoption, that the
9 withdrawal is in the best interest of the person to be adopted and the
10 court orders the withdrawal.

11 * Sec. 8. AS 25.23.080(c) is amended to read:

12 (c) A certified copy of the birth certificate or verification of
13 the birth record of the person to be adopted, if available, the infor-
14 mation specified in AS 25.23.185(a), if available, and the required
15 consents, relinquishments, and termination orders shall be filed with
16 the clerk.

17 * Sec. 9. AS 25.23.100(a) is amended to read:

18 (a) After the filing of a petition to adopt a minor, the court
19 shall fix a time and place for hearing the petition. At least 20 days
20 before the date of hearing, the petitioner shall give notice of the
21 filing of the petition and of the time and place of hearing [SHALL BE
22 GIVEN BY THE PETITIONER] to (1) the department, unless the adoption is
23 by a stepparent of the child; (2) any agency or person whose consent
24 to the adoption is required by this chapter, but who has not consent-
25 ed; and (3) a person whose consent is dispensed with upon any ground
26 mentioned in AS 25.23.050(a)(1), (2), (3), (6), (7), (8) and (9), but
27 who has not consented. The notice to the department shall be accom-
28 panied by a copy of the petition. [IN THIS SUBSECTION, "STEPPARENT"
29 MEANS THE SPOUSE OF A NATURAL PARENT OF THE CHILD RESIDING IN THE SAME

1 HOUSEHOLD.]

2 * Sec. 10. AS 25.23.100(b) is amended to read:

3 (b) Notice to persons specified in AS 25.23.050 shall include a
4 statement of the grounds under which consent to the adoption is not
5 required. Notice given under this section shall be adequate to give
6 actual notice of the proceedings, taking into account education and
7 language differences which are known or reasonably ascertainable by
8 the petitioner or the department. The notice of hearing shall contain
9 all names by which the minor has been identified and shall state in
10 summary form the effect of a decree of adoption. Notice shall be
11 given in the manner appropriate under rules of civil procedure for the
12 service of process in a civil action in this state or in any manner
13 the court by order directs. Notice by publication may not be given
14 unless, for compelling reasons, the court orders it to be given under
15 the procedure established in Rule 4 of the Alaska Rules of Civil
16 Procedure. Proof of the giving of the notice shall be filed with the
17 court before the petition is heard, subject to the time limitations in
18 (e) of this section.

19 * Sec. 11. AS 25.23 is amended by adding a new section to read:

20 Sec. 25.23.125. INTERESTS OF MINOR TO BE ADOPTED. (a) If the
21 person to be adopted is a minor under the age of 10 and the person is
22 of sufficient age and intelligence to state desires concerning the
23 adoption, the court shall consider the person's desires.

24 (b) The court may appoint a guardian ad litem or attorney under
25 AS 25.24.310 for a minor who is to be adopted.

26 (c) The court may issue a protective order or other order that
27 is in the best interest of a minor who is to be adopted.

28 * Sec. 12. AS 25.23.130(a) is amended to read:

29 (a) A final decree of adoption, whether issued by a court of

1 this state or of any other state, has the following effect as to
2 matters within the jurisdiction or before a court of this state:

3 (1) except with respect to a spouse of the petitioner and
4 relatives of the spouse, to relieve the natural parents of the adopted
5 person of all parental rights and responsibilities, and, except as
6 provided in (c) of this section, to terminate all legal relationships
7 between the adopted person and the natural parents and other relatives
8 of the adopted person, so that the adopted person thereafter is a
9 stranger to the former relatives for all purposes including inheri-
10 tance, unless the decree of adoption specifically provides for contin-
11 uation of inheritance rights, and the interpretation or construction
12 of documents, statutes, and instruments, whether executed before or
13 after the adoption is decreed, which do not expressly include the
14 person by name or by some designation not based on a parent and child
15 or blood relationship; and

16 (2) to create the relationship of parent and child between
17 petitioner and the adopted person, as if the adopted person were a
18 blood descendant of the petitioner, for all purposes including inheri-
19 tance and applicability of statutes, documents, and instruments,
20 whether executed before or after the adoption is decreed, which do not
21 expressly exclude an adopted person from their operation or effect.

22 * Sec. 13. AS 25.23.130 is amended by adding a new subsection to read:

23 (c) Nothing in this chapter prohibits an adoption that allows
24 visitation between the adopted person and that person's natural
25 parents or other relatives.

26 * Sec. 14. AS 25.23.150(b) is repealed and reenacted to read:

27 (b) The papers and records relating to an adoption that are a
28 part of the permanent record of a court are subject to inspection only
29 upon consent of the court. The papers and records relating to an

1 adoption on file with the department, an agency, or an individual are
2 subject to inspection only with consent of all interested persons or
3 by order of a court for good cause shown. Except as provided in this
4 section, adoption records of the Bureau of Vital Statistics are sub-
5 ject to inspection under the provisions of AS 18.50.

6 * Sec. 15. AS 25.23.150(c) is amended to read:

7 (c) Except as otherwise provided by law, or as authorized in
8 writing by the adopted child, if 14 or more years of age, or by the
9 adoptive parent, or upon order of the court for good cause shown [IN
10 EXCEPTIONAL CASES], a [NO] person may not [IS REQUIRED TO] disclose
11 the [NAME OR] identity or address of either an adoptive parent or an
12 adopted child.

13 * Sec. 16. AS 25.23.150 is amended by adding a new subsection to read:

14 (d) The court may order the disclosure of a natural parent's
15 identity or address only if

16 (1) the court makes an express finding that the disclosure
17 is required because of a medical necessity or other extraordinary
18 circumstance; and

19 (2) the natural parent, the adopted child, and the adoptive
20 parents are afforded proper notice and a hearing.

21 * Sec. 17. AS 25.23 is amended by adding a new section to read:

22 Sec. 25.23.173. INDIAN CHILD ADOPTION REPORTS. After entering a
23 final decree or order in an Indian child adoptive placement, the court
24 shall send to the Secretary of the Interior a copy of the decree or
25 order and other information required by 25 U.S.C. 1951 (sec. 301(a) of
26 the Indian Child Welfare Act of 1978).

27 * Sec. 18. AS 25.23 is amended by adding a new section to read:

28 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a
29 petition for adoption is filed with the court, the agency or

1 individual placing the person for adoption, or the petitioner, shall
2 file with the court, for release to the state registrar of vital
3 statistics, the following information, or an explanation of its
4 unavailability, on forms provided by the department:

5 (1) the address of each parent named on the original birth
6 certificate;

7 (2) background information required under AS 18.50.510;

8 (3) a statement signed by each parent named on the original
9 birth certificate acknowledging receipt of a copy of AS 18.50.500 -
10 18.50.510 and an understanding of those provisions; and

11 (4) a statement signed by each parent named on the original
12 birth certificate that indicates whether the parent consents to dis-
13 closure of the parent's identity under AS 18.50.500 and acknowledges
14 that a refusal to consent becomes effective under AS 18.50.500 only if
15 reaffirmed after the adopted person has reached 17 years of age.

16 (b) Upon entry of a decree of adoption, the clerk of the court
17 shall transmit to the Bureau of Vital Statistics the statement and the
18 information provided under (a) of this section. The bureau shall
19 attach the statement and information to the original birth certificate
20 of the adopted person.

21 (c) A child adoption agency licensed under AS 47.35.100 shall
22 maintain records of the information required to be furnished to the
23 court under this section or under regulations of the commissioner
24 implementing this section. If a child adoption agency ceases to place
25 persons for adoption, it shall transfer its records to the commission-
26 er.

27 * Sec. 19. AS 25.23.230 is amended to read:

28 Sec. 25.23.230. REGULATIONS. The department shall adopt regu-
29 lations necessary to implement the provisions of AS 25.23.185 -

1 25. 3.240 [AS 25.23.190 - 25.23.240].

2 * Sec 20. AS 25.23.240 is amended by adding a new paragraph to read:

3 (9) "stepparent" means the spouse of a natural parent of
4 the child residing in the same household.

5 * Sec. 21. AS 44.21.410(a) is amended to read:

6 (a) The office of public advocacy shall

7 (1) perform the duties of the public guardian under AS
8 13.26.360 - 13.26.410;

9 (2) provide visitors and experts in guardianship proceed-
10 ings under AS 13.26.131;

11 (3) provide guardian ad litem services to children in child
12 protection actions under AS 47.17.030(e) and to wards and respondents
13 in guardianship proceedings who will suffer financial hardship or
14 become dependent upon a government agency or a private person or
15 agency if the services are not provided at state expense under AS
16 13.26.112;

17 (4) provide legal representation in guardianship proceed-
18 ings to respondents who are financially unable to employ attorneys
19 under AS 13.26.106(b), to indigent parties in cases involving child
20 custody in which the opposing party is represented by counsel provided
21 by a public agency, and to indigent parents or guardians of a minor
22 respondent in a commitment proceeding concerning the minor under
23 AS 47.30.775;

24 (5) provide legal representation and guardian ad litem
25 services under AS 25.24.310; in cases arising under the Uniform Inter-
26 state Compact on Juveniles (AS 47.15); in cases involving petitions to
27 adopt a minor under AS 25.23.125(b) [AS 25.23.100(j)]; in cases in-
28 volving petitions to remove the disabilities of a minor under AS 09.-
29 55.590; in children's proceedings under AS 47.10.050(a); and in cases

1 involving indigent persons who are entitled to representation under
2 AS 18.85.100 and who cannot be represented by the public defender
3 agency because of a conflict of interests.

4 * Sec. 22. AS 25.23.100(j) is repealed.

5 * Sec. 23. The amendments to AS 25.23.130 made by secs. 13 and 14 of
6 this Act are retroactive with regard to

7 (1) an adoption decree in which the superior court granted
8 visitation rights to a natural parent or other relative of the adopted
9 person; and

10 (2) an adoption decree entered on or after January 1, 1984, in
11 which the superior court denied a request that a natural parent or other
12 relative of the adopted person be granted visitation rights, if the request
13 was made in the pleadings and the adopted person is under 18 years of age;
14 a party to an adoption under this paragraph may petition the court for
15 reconsideration of the denial of visitation rights.

16 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c).