

Offered: 2/5/86
Referred: Finance

Original sponsors: Rodey, P.Fischer,
Sturgulewski and Kerttula

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 HOUSE CS FOR SENATE BILL NO. 187 (2d Judiciary)
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 specif-
16 ically provides for the continuation of inheritance rights [EXCEPT
17 THAT ADOPTION OF A CHILD BY THE SPOUSE OF A NATURAL PARENT HAS NO
18 EFFECT ON THE RELATIONSHIP BETWEEN THE CHILD AND EITHER NATURAL PAR-
19 ENT];

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, in the case of an adoption, the original
9 certificate and the evidence of adoption are not subject to inspection
10 except as provided in AS 18.50.500 - 18.50.510 or by order of the
11 superior court under AS 25.23.150; but the state registrar shall allow
12 inspection by an agent of the state or federal government acting in
13 the performance of the agent's official duties; in the case of a
14 legitimation, the original certificate and the evidence of [ADOPTION
15 OR] legitimation are not subject to inspection except upon order of
16 the superior court or as provided by regulation; however, the regula-
17 tion shall allow inspection by an agent of the state or federal gov-
18 ernment acting in the performance of the agent's [HIS] official
19 duties;

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

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

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

27 (15) "biological parent" means a parent named on the origi-
28 nal certificate of birth of an adopted person;

29 (16) "child adoption agency" means a child adoption agency

1 licensed under AS 47.35.100;

2 (17) "commissioner" means the commissioner of health and
3 social services;

4 (18) "medical history" includes information relating to a
5 person's medical conditions and treatment, immunization records, and
6 other medical information about the person that could be important to
7 the health care of the adopted person.

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

9 ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

10 Sec. 18.50.500. IDENTITY OF BIOLOGICAL PARENTS. (a) After
11 receiving a request by an adopted person 18 years of age or older for
12 the identity of a biological parent of the person, the state registrar
13 shall provide the person with an uncertified copy of the person's
14 original birth certificate, and any change in the biological parent's
15 name or address attached to the certificate, if the biological par-
16 ent's written consent to disclosure is on file with the state regis-
17 trar. The state registrar may not provide to an adopted person a copy
18 of the person's original birth certificate or disclose the name and
19 address of a biological parent without that parent's written consent,
20 except as required by the court under AS 25.23.150.

21 (b) The state registrar upon request shall provide to a bio-
22 logical parent a form containing the text of this section and AS 18.-
23 50.510 and a statement, to be signed by the biological parent, indi-
24 cating the biological parent's desires regarding the disclosure of
25 information under (a) of this section. The form must contain at least
26 the following information and appear substantially as follows:

27 INSTRUCTIONS TO STATE REGISTRAR OF VITAL STATISTICS REGARDING
28 DISCLOSURE OF INFORMATION TO AN ADOPTED CHILD

29 I. Disclosure During Biological Parent's Lifetime (Choose A, B, or C)

1 A. [] PROVIDE to my biological child a copy of the child's
2 original birth certificate, and my name and address, when
3 the child is 18 years of age or older, if requested by
4 the child.

5 B. [] DO NOT PROVIDE to my biological child a copy of the
6 child's original birth certificate, or my name and
7 address, unless required by law or by court order.

8 C. [] If my biological child, when 18 years of age or older,
9 requests a copy of the child's original birth
10 certificate, or my name and address, these are my
11 instructions:

12 1. I want to be notified of the request in the following
13 manner (choose a or b):

14 a. [] by certified mail, deliverable to me only, at
15 my last known address

16 b. [] _____
17 (Specify how you want to be notified)

18
19 2. If I do not reply to your notice within 90 days after
20 you send it, or if you cannot locate me, then (choose
21 a or b)

22 a. [] PROVIDE the information requested by the
23 child;

24 b. [] DO NOT PROVIDE the information requested by
25 the child.

26 II. Disclosure After Biological Parent's Death (Choose A or B)

27 In the event that you are properly notified of my death or other-
28 wise verify that I have died, and my biological child, when 18
29 years of age or older, requests a copy of the child's original

1 certificate of birth or my name and address, these are my in-
2 structions:

3 A. PROVIDE the information requested by the child and
4 INFORM the child of my death;

5 B. DO NOT PROVIDE the information requested by the child,
6 but INFORM the child of my death.

7 My current name and address:

8 _____
9 (Signature of biological parent) (Please print or type)

10 _____
11 (Date)

12 _____

13 (c) A biological parent may at any time obtain from, and submit
14 to, the state registrar a new instruction form described under (b) of
15 this section, or may otherwise submit written instructions regarding
16 disclosure of information under this section.

17 (d) If one biological parent consents to disclosure, but the
18 other biological parent objects, the state registrar shall remove the
19 name of the objecting parent before providing the birth certificate to
20 the adopted person under (a) of this section.

21 (e) An adopted person 18 years of age or older, or a biological
22 parent, may submit to the state registrar a notice of change of name
23 or address. The state registrar shall attach the information to the
24 original birth certificate of the adopted person.

25 (f) The state registrar shall disclose to a biological parent,
26 at that parent's request, the most current name and address of an
27 adopted child that appear in the state registrar's adoption files if
28 the child is 18 years of age or older and has requested in writing
29 that the information be disclosed if ever requested by the biological

1 parent.

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

8 (1) the age of the biological parent on the day the adopted
9 person was born;

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

11 (A) national origin;

12 (B) ethnic background; and

13 (C) tribal membership;

14 (3) the medical history of the biological parent and of
15 blood relatives of the biological parent;

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

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

21 (6) the existence of other children of the biological
22 parent;

23 (7) whether the biological parent was alive at the time of
24 adoption;

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

26 (9) other information provided by the biological parent for
27 disclosure to the child.

28 (b) Information released under (a) of this section shall be on a
29 standard form prepared by the commissioner. The information may not

1 include the name of a biological parent or other information not
2 listed in (a) of this section.

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

4 (a) The required consent to adoption shall be executed at any
5 time after the birth of the child in the presence of the court or in
6 the presence of a person authorized to take acknowledgments. The
7 consent is not valid unless the consent form states that the person
8 consenting to the adoption has the right to withdraw that consent as
9 provided in AS 25.23.070(b), and unless the person consenting to the
10 adoption acknowledges receipt of a copy of the consent form. The
11 person giving consent shall state in the consent form whether the
12 child is a member of an Indian tribe or the biological child of a
13 member of an Indian tribe, so that the court may determine whether the
14 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act of 1978)
15 apply.

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

17 (c) A consent executed under this section is effective as a
18 power of attorney under AS 13.26.020. Unless the consent form pro-
19 vides otherwise, and regardless of whether the form names or iden-
20 tifies the adoptive parent, the consent delegates to the adoptive
21 parent all powers that may be delegated under AS 13.26.020. The power
22 of attorney takes effect when the child is delivered to the adoptive
23 parent, and remains in effect as long as the consent is in effect; but
24 the power of attorney is not effective beyond one year, unless the
25 court extends it for good cause. The power of attorney does not
26 terminate on the death or disability of the person executing the
27 consent, unless the consent form so states. This subsection may not
28 be construed to alter the requirements of the Interstate Compact on
29 the Placement of Children (AS 47.70).

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (a) A final decree of adoption, whether issued by a court of
29 this state or of any other state, has the following effect as to

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24 both, under AS 25.24.310 for a minor who is to be adopted.

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

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

28 (a) A final decree of adoption, whether issued by a court of
29 this state or of any other state, has the following effect as to

1 matters within the jurisdiction or before a court of this state:

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

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

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

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

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

26 (b) The papers and records relating to an adoption that are a
27 part of the permanent record of a court are subject to inspection only
28 upon consent of the court. The papers and records relating to an
29 adoption on file with the department, an agency, or an individual are

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

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

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

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

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

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

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

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

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

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

27 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a
28 petition for adoption is filed with the court, the agency or individu-
29 al placing the person for adoption, or the petitioner, shall file with

1 the court, for release to the state registrar of vital statistics, the
2 following information, or an explanation of its unavailability, on
3 forms provided by the department:

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

6 (2) background information required under AS 18.50.510;

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

10 (4) a statement signed by each parent named on the original
11 birth certificate that indicates whether the parent consents to dis-
12 closure of the parent's identity under AS 18.50.500.

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

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

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

25 Sec. 25.23.230. REGULATIONS. The department shall adopt regu-
26 lations necessary to implement the provisions of AS 25.23.185 - 25.-
27 23.240 [AS 25.23.190 - 25.23.240].

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

29 (9) "stepparent" means the spouse of a natural parent of

1 the child residing in the same household.

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

3 (a) The office of public advocacy shall

4 (1) perform the duties of the public guardian under AS 13.-
5 26.360 - 13.26.410;

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

8 (3) provide guardian ad litem services to children in child
9 protection actions under AS 47.17.030(e) and to wards and respondents
10 in guardianship proceedings who will suffer financial hardship or
11 become dependent upon a government agency or a private person or
12 agency if the services are not provided at state expense under AS 13.-
13 26.112;

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

21 (5) provide legal representation and guardian ad litem
22 services under AS 25.24.310; in cases arising under the Uniform Inter-
23 state Compact on Juveniles (AS 47.15); in cases involving petitions to
24 adopt a minor under AS 25.23.125(b) [AS 25.23.100(j)]; in cases in-
25 volving petitions to remove the disabilities of a minor under AS 09.-
26 55.590; in children's proceedings under AS 47.10.050(a); and in cases
27 involving indigent persons who are entitled to representation under
28 AS 18.85.100 and who cannot be represented by the public defender
29 agency because of a conflict of interests.

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

2 * Sec. 23. RETROACTIVE EFFECT; RECONSIDERATION OF DENIAL OF VISITATION
3 RIGHTS. (a) The amendments to AS 25.23.130 made by secs. 13 and 14 of
4 this Act are retroactive with regard to

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

8 (2) an adoption decree entered on or after January 1, 1984, in
9 which the superior court denied a request that a natural parent or other
10 relative of the adopted person be granted visitation rights, if the request
11 was made in the pleadings and the adopted person is under 18 years of age.

12 (b) A party to an adoption under (a)(2) of this section may petition
13 the court for reconsideration of the denial of visitation rights.

14 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).