

Offered: 5/10/86

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1 IN THE SENATE

BY THE CONFERENCE COMMITTEE

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CONFERENCE CS FOR SENATE BILL NO. 187

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IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

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

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

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* Section 1. AS 13.11.045 is amended to read:

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

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(1) an adopted person is the child of an adopting parent
and not of the natural parents unless the decree of adoption specif-
ically provides for the continuation of inheritance rights [EXCEPT
THAT ADOPTION OF A CHILD BY THE SPOUSE OF A NATURAL PARENT HAS NO
EFFECT ON THE RELATIONSHIP BETWEEN THE CHILD AND EITHER NATURAL PAR-
ENT];

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

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

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(B) the paternity is established by an adjudication
before the death of the father or is established thereafter by
clear and convincing proof, except that the paternity established
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 original
28 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.

16 (b) The state registrar may not disclose the name and address of
17 a biological parent, except as required under (a) of this section or
18 by the court under AS 25.23.150.

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

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

29 Sec. 18.50.510. DESCRIPTIVE INFORMATION REGARDING BIOLOGICAL

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

6 (1) the age of the biological parent on the day the adopted
7 person was born;

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

9 (A) national origin;

10 (B) ethnic background; and

11 (C) tribal membership;

12 (3) the medical history of the biological parent and of
13 blood relatives of the biological parent;

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

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

19 (6) the existence of other children of the biological
20 parent;

21 (7) whether the biological parent was alive at the time of
22 adoption;

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

24 (9) other information provided by the biological parent for
25 disclosure to the child, which may include such items as photographs,
26 letters, and a statement explaining the reasons for the adoption.

27 (b) Information released under (a) of this section shall be on a
28 standard form prepared by the commissioner. The information may not
29 include the name of a biological parent or other information not

1 listed in (a) of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (2) the natural parent, the adopted child, and the adoptive
18 parents are afforded proper notice and a hearing; the court may waive
19 the hearing and notice requirement if it finds there is a medical
20 necessity that poses an immediate risk to life.

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; and

7 (2) background information required under AS 18.50.510.

8 (b) Upon entry of a decree of adoption, the clerk of the court
9 shall transmit to the Bureau of Vital Statistics the information
10 provided under (a) of this section. The bureau shall attach the
11 information to the original birth certificate of the adopted person.

12 (c) A child adoption agency licensed under AS 47.35.100 shall
13 maintain records of the information required to be furnished to the
14 court under this section or under regulations of the commissioner
15 implementing this section. If a child adoption agency ceases to place
16 persons for adoption, it shall transfer its records to the commission-
17 er.

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

19 Sec. 25.23.230. REGULATIONS. The department shall adopt regu-
20 lations necessary to implement the provisions of AS 25.23.185 - 25.-
21 23.240 [AS 25.23.190 - 25.23.240].

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

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

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

26 (a) The office of public advocacy shall

27 (1) perform the duties of the public guardian under AS 13.-
28 26.360 - 13.26.410;

29 (2) provide visitors and experts in guardianship

1 proceedings under AS 13.26.131;

2 (3) provide guardian ad litem services to children in child
3 protection actions under AS 47.17.030(e) and to wards and respondents
4 in guardianship proceedings who will suffer financial hardship or
5 become dependent upon a government agency or a private person or
6 agency if the services are not provided at state expense under AS 13.-
7 26.112;

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

15 (5) provide legal representation and guardian ad litem
16 services under AS 25.24.310; in cases arising under the Uniform Inter-
17 state Compact on Juveniles (AS 47.15); in cases involving petitions to
18 adopt a minor under AS 25.23.125(b) [AS 25.23.100(j)]; in cases in-
19 volving petitions to remove the disabilities of a minor under AS 09.-
20 55.590; in children's proceedings under AS 47.10.050(a); and in cases
21 involving indigent persons who are entitled to representation under
22 AS 18.85.100 and who cannot be represented by the public defender
23 agency because of a conflict of interests.

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

25 * Sec. 23. RETROACTIVE EFFECT; RECONSIDERATION OF DENIAL OF VISITATION
26 RIGHTS. (a) The amendments to AS 25.23.130 made by secs. 12 and 13 of
27 this Act are retroactive with regard to

28 (1) an adoption decree in which the superior court granted
29 visitation rights to a natural parent or other relative of the adopted

1 person; and

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

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

8 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).