

HB

682

HOUSE BILL NO. 682
Relating To Adoption And Relinquishment Procedures

Testimony
to
Judiciary Committee
Alaska House of Representatives

April 16, 1980

Presented on behalf of
Catholic Social Services, Inc.

by

Sister Mary Clare Ciulla, A.C.S.W., Director
Catholic Social Services
Anchorage, Alaska

Mr. Chairman and members of the House Judiciary Committee. I am Sister Mary Clare, Director of Catholic Social Services of Anchorage, Alaska. I am here to offer the views of Catholic Social Services on House Bill 682 which changes the current law regulating adoption and relinquishment procedures.

Catholic Social Services is the social service arm of the Archdiocese of Anchorage, Alaska. We operate on a budget of approximately \$200,000 and a paid staff of 10. On this staff we have one full-time and two part-time psychologists, and a consulting psychiatrist. I have a master's degree in social work. The remaining staff work in the adoption area under my direction. We provide family counseling, single-parent counseling and foster care, adoption services, refugee services, and a food and clothing distribution center for the poor. We have been in existence for 13 years. For most of that time we were the only private licensed adoption agency in the State. We place approximately 30-45 children per year in adoptive homes. Since 1967, we have placed nearly 450 children. We also provide assistance to single mothers who

decide to keep their babies. All placements are done with the complete consent of those involved and are provided on a completely nondiscriminatory basis without regard to race or creed.

House Bill 682 would radically change adoption procedures by eliminating the role of the agency in the taking of relinquishments and substituting the court system. Over the past 13 years we have had experience with the old Alaska law, the current Section 20.15.180 enacted in 1974 and the Federal Indian Child Welfare Act of 1978 which requires court relinquishments. In our experience the current Alaska law is by far the best method. Court relinquishments of agency adoptions add no positive benefits or protection to anyone. On the contrary, such procedures are detrimental to all involved - the agency, natural parents, child and adoptive parents. For this reason we strongly oppose the enactment of HB 682. I would like to discuss briefly the effect of this bill on the parties involved.

Effect on the Natural Parents

In most cases the parent who relinquishes is the natural mother although in some cases the father is also involved. Many cases involve young, unwed mothers and many are from outside of Anchorage in areas where there is no superior court. The adverse effects on such natural parents are in the following areas:

1. Privacy and inconvenience. Present law allows the agency to take a relinquishment in private before or after birth provided that the relinquishment can be withdrawn within 10 days after signing or birth, whichever is later. This bill requires a court petition and probable hearing after birth by the natural parent. This is done with the Indian Child Welfare Act. We generally find with the Federal Act that the mother does not want to go to court. It only adds potential embarrassment in a sensitive situation which is better handled by a sympathetic social worker from the agency rather than by the court. More-

over, having made the difficult decision to place her baby for adoption, the girl does not want to be delayed in resuming her normal life. Once discharged from the hospital she wants to go home and not wait around for a court hearing that can often be delayed due to a crowded calendar.

2. Choice. The giving of a relinquishment is a voluntary choice of the natural parent under present law. HB 682 removes that choice and places it with the court [subsection 180(f)]. Moreover, subsections 180(d) and (f) allow the court to place the child with a relative or agency even if the natural parent objects. There is no justification for such a limitation on parental choice nor any good reason why the court's wisdom should be substituted for the desires of the parent.

3. Delay. No time limit for termination is given by the bill. Given the delays normal in any court proceeding, the natural parent is left uncertain as to what her rights and obligations are for an abnormal length of time. This bill would add over 100 new hearings to the

5.

Anchorage court system alone at the present time. The resulting added burden will obviously mean more delay.

Effect on the Agency, Child and Adoptive Parents

In adoption matters time and costs are vital factors. We are dealing with human beings who need stable relationships. It is necessary to promptly place children with adoptive parents at cost which does not burden the agency or the parents. HB 682 would adversely impact the process in these two areas:

1. Delay in placement. Until termination no child is placed with adoptive parents. Ten days is now the time a child is kept in limbo with an uncertain future. HB 682 contains no time limit for termination. Obviously foster care will be greatly extended until the time a termination decree is entered. In Indian Child Welfare Act cases it is at least 20 days and usually longer. We all know that the trend in

court proceedings of any kind is toward more delay. No child should be placed in this situation nor should the agency or the adoptive parents.

2. Added cost. Any court proceeding obviously involves cost. Under HB 682 two hearings occur not one. Legal fees will increase to handle this additional hearing. More staff time is involved for the agency as well as more foster care expense and living expense for the natural parent until termination, a cost sometimes necessary. Obviously public costs for the court increase also. Most of this added expense will fall on the adoptive parents, money that can obviously be better spent elsewhere.

Advantages to HB 682

There are no benefits to HB 682. No added protection is given to anyone not already provided by the present law. No one that Catholic

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Social Services deals with as a client including the natural or adoptive parents has expressed any desire for a change in current proceedings.

In fact those subject to the Indian Child Welfare Act which is similar

have expressed a dislike for its requirements.

The present law works well. No difficulty has been uncovered by our agency in its operation over the past 6 years. We, therefore, request that the present statute be retained and that HB 682 not be enacted.

Private Adoptions

HB 682 prohibits private adoptions. We understand that, in Anchorage at least, private, non-stepparent or relative adoptions are few in number. At a public forum sponsored last December by the League of Women Voters and the University of Alaska opposition to banning private adoptions was expressed on the grounds that it would

curtail the natural parents' right of choice, foreclose an avenue for adoptions by certain adoptive parents and be unworkable in remote areas. As a result those at the forum, contrary to a recent newspaper column declined to recommend the banning of private adoptions.

Catholic Social Services believes that agency-handled adoptions are in the best interest of all concerned in almost all cases. We recognize, however, the right of choice of those who do not wish to go to an agency to place their child for adoption. As long as these kinds of adoptions are relatively small in number and no pattern of abuse is shown we would not advocate a prohibition. Instead, the Committee should consider additional safeguards such as lengthening the time for filing the investigative report which is now a short 30 days, AS 20.15.-100(e). In addition, a court hearing could be required for all private, non-stepparent or relative consents to adoption. While this would raise the same problems as mentioned earlier it is more justified in private adoptions where trained social workers are not involved in the process.

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April 16, 1980

Representative Charles H. Parr
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: House Bill 682

Dear Representative Parr:

I am the President of the Board of Directors of Catholic Social Services, Inc., and the attorney for the agency. Sister Mary Clare, the Director of Catholic Social Services is testifying on House Bill 682 regarding the adverse affects of this proposed legislation on the agency. I wish to add my comments from an attorneys point of view.

As you know, Catholic Social Services opposes the revision of AS 20.15.180 which provides for relinquishment of parental rights. The present relinquishment of parental rights section has been used by the agency to the exclusion of other methods since its enactment in 1974. During this time I have handled approximately half of the adoptions from Catholic Social Services ranging from 15 to 20 per year. In no instance has there been any difficulty or objection arising out of the use of the non-judicial relinquishment forms. In each case the natural parent or parents are counseled and informed of their rights by representatives of the agency who are in a far better position to deal with such delicate matters than the court. The adding of another judicial hearing will provide absolutely no protection or benefit to anyone and would cause only added embarrassment, time and cost. Unless the proponents of the revision of Section 180 can point to specific wrongs or difficulties in the operation of that section with Catholic Social Services we strongly urge that it be retained. We have no objection to the creation of a new petition process in court as an option if anyone thinks that this is necessary. We however, request that the relinquishment section with which Catholic Social Services has been operating successfully be retained so that its important work can be continued

Representative Charles K. Parr
Page Two
April 15, 1980

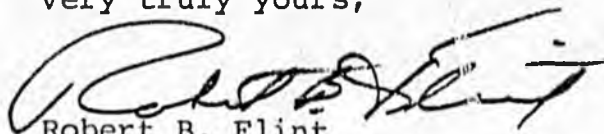
with the same confidentiality and success that it has had ever since that Section 180 was adopted.

It should be pointed out that the proposed bill in regard to the relinquishment section actually takes away the right of the natural parent to choose how the child shall be adopted. At the present time the natural parent may choose to relinquish to the State, an agency or directly consent to an adoption by a private party. Under the proposed change, voluntary relinquishment would be allowed only if the court decided where the child was to go, not the natural parent. If this bill were to be enacted in its present form, a parent desiring Catholic Social Services to place the child could never be sure that this request would be honored since the judge may ignore that request, and upon the representations of someone else, a relative or welfare, could refuse to allow Catholic Social Services the adoption.

Another reason given for the House Bill 682 is the granting of guardianship and custody in a more specific way which is alleged to be vague in section 180. From the viewpoint of Catholic Social Services this is an unnecessary concern. No trouble has arisen concerning this matter and in any event it seems quite obvious that a relinquishment of parental rights to an agency carries with it all aspects of those rights, including care and custody so that the agency stands in the place of the natural parent. Moreover, since it is the policy of Catholic Social Services to work swiftly though carefully, placement occurs as soon as possible after the ten day revocation period provided in the relinquishment. The child does not wait around and is not shifted from foster parent to foster parent while tedious and unnecessary legalities are sorted out before courts. Catholic Social Services considers that to be against the best interests of the child and the adopted parents under any set of circumstances. As a practical matter, therefore, there is no need to give the agency specific custody and control rights.

I respectfully urge the Committee to defeat House Bill 682.

Very truly yours,



Robert B. Flint

RBF/11



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT

415 MAIN STREET

KETCHIKAN, ALASKA

99901

February 27, 1980

Chambers of
THOMAS E. SCHULZ, Judge

Hon. Charles H. Parr
Chairman, Judiciary Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Re: H. B. 682 & CSHB 532

Dear Mr. Parr:

I have had an opportunity to review the Committee Substitute for House Bill 532 relating to the videotaping of testimony of young victims in sexual assaults and sexual abuse cases. The Committee Substitute appears to allow this procedure to be employed prior to trial, and I believe it is an excellent idea. Frankly, I have seen a number of these cases involving young victims where the defendant held tough for a trial or delayed the proceedings as long as he could hoping that the young victim would ultimately refuse to testify. I am somewhat optimistic that if this videotaping procedure were available, these cases might be more speedily disposed of.

I have also had an opportunity to review H. B. 682 concerning adoption and relinquishment procedures. I think that Bill is a good piece of legislation and it tends to clear up some problems with the current legislation.

I would hope that both of these Bills can receive favorable action by the Legislature in this Session.

Very truly yours,

Thomas E. Schulz

Thomas E. Schulz
Superior Court Judge

TES:ri

POSITION PAPER

HOUSE BILL NO. 682

"An Act regulating adoption and relinquishment procedures; and providing for an effective date."

House Bill No. 682 adds four new sections to AS 20.15. These pertain to jurisdiction; custody and control of minor; petition to adopt; and termination of parent and child relationship. In addition, it repeals and re-enacts AS 20.15.180, "Relinquishment of Parental Rights and Responsibilities."

Section 20.15.025, concerning jurisdiction states the court does not have jurisdiction to accept or consider a petition to adopt a minor under the age of 10 years unless parental rights have been terminated and the department or agency approves the petition. While this section is reasonable, there is question as to the use of the age limit of 10 years. It would appear that such requirements should hold for any minor, regardless of age.

Section 20.15.033 clarifies that the department or agency which is responsible for a minor is entitled to place the child for temporary care or for adoption and that such placement may be terminated at any time before approval to file a petition has been granted. After a petition to adopt has been filed, a child could only be removed from an adoptive placement upon the approval of the superior court. As far as can be determined, this is the generally accepted procedure at the present time, so that the enactment of this Bill would make this practice mandatory.

There is a question regarding one of the subheadings in Section 20.15.175, which states that the parent and child relationship may not be terminated except "in an adoption proceeding under this chapter." It is unclear what this subheading means, since it would appear that parental rights can only be terminated voluntarily by relinquishment in AS 20.15.180 or involuntarily through AS 47.10.080(c)(3).

Section 20.15.180 as proposed would require relinquishments to be given before the superior court rather than before the representative of an agency taking custody. This is advisable because the court can then ascertain whether the relinquishing parent understands the meaning and consequences of relinquishment, and thus removes the potential cloud of coercion which can exist in relinquishments to agencies. This provision is also consistent with the Indian Child Welfare Act which requires that relinquishments occur "before a judge of a court of competent jurisdiction."

It is suggested that consideration be given to changing "may" to "shall" in Section 20.15.180(c), thus making hearings mandatory on petitions to relinquish. Since the question of relinquishment is such a serious decision, it appears important that the court determine whether the relinquishing parent truly understands the meaning and consequences of relinquishment.

In summary, the Department of Health and Social Services is in support of House Bill No. 682. It is suggested that consideration be given to changing the age in AS 20.15.025 (Page 1, Line 15) to include all minor children, and that the court be obliged to hold hearings on relinquishment petitions (20.15.180(c)). There is also a question raised as to the meaning in Section 20.15.175(1).

RECOMMENDED BY: Art Holmberg DATE: 8/12/80
Art Holmberg, Director,
Division of Social Services

APPROVED BY: Helen D. Beirne DATE: 5-3-80
Helen D. Beirne, Commissioner
Department of Health and Social Services

FISCAL NOTE

I. REQUEST

Bill/Resolution No. _____ House Bill No. 682
 Title regulating adoption and relinquishment procedures; providing for effective date
 Requested by _____ Date February 13, 1980

II. FISCAL DETAIL

Department of Health and Social Services
 Agency Affected _____
 Program Category Affected Social Services
 BRU, Program, or Subprogram(s) Affected Social Services
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This Bill has no fiscal impact on the Department of Health and Social Services.

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

Prepared by: [Signature] Date: 2/25/80
 Division/XXXXX: Social Services PH: 465-3170
 Department of Health & Social Services

LA11 3390 16.25 JA01 0065 16.25 04/09/80

TO: REPRESENTATIVE PARR AND ALL MEMBERS OF THE HOUSE JUDICIARY COMMITTEE
FROM: JANA SHEDLOCK
ALASKAN REPRESENTATIVE FOR C.U.B. (CONCERNED UNITED BIRTH-PARENTS)
7105 SHOORESIN CIRCLE
ANCHORAGE 99504 333-2272

WE STRONGLY SUPPORT HB 682 AND ON ADOPTION. WE WOULD APPRECIATE YOUR
SUPPORT IN PASSING THESE BILLS.

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TO: REPRESENTATIVE PARR

FROM: JAMIE ROBINSON, 7129 SHOORESIN CIRCLE, ANC.99504 337-6735

MY FAMILY AND I STRONGLY SUPPORT THE TWO ADOPTION BILLS THAT ARE COMING UP ON APRIL 16.

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L.C.11 2907 15.14 JA01 0073 15.14 04/09/80

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TO REPS PARR, ANDERSON, BROWN, BARNES, BUCHOLDT, MALONE
MARTIN, O'CONNELL, PHILLIPS

FM REV V. A. AND JUNE CHRON
7202 OLD HARBOR ROAD 333 6750
ANCH 99504

WE STRONGLY SUPPORT THE TWO HOUSE BILLS ON ADOPTION THAT ARE OPENING
FOR DEBATE APRIL 16. WE WOULD APPRECIATE YOUR SUPPORT OF THESE BILLS.