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187

STATE OF ALASKA THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-2800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	1/27/86	1:30 pm
" "	1/29/86	1:30 pm
" "	1/30/86	1:30 pm
" "	1/31/86	1:30 pm
" "	2/3/86	1:30 pm

COMMITTEE REPORT

Date referred: 1/17/86
(Judiciary referral added 1/17)

FURTHER REFERRALS: FINANCE

DATE: 2/3/86

The JUDICIARY Committee has considered SB 187

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

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with HCSSB 187 (2d JUD) same title
 new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

W. K. Hill

John L. ...

Max G. ...

R. ...

Ross E. ...

SIGNING OTHER RECOMMENDATIONS:

W. K. Hill - no rec

W. K. Hill
Chairman

5/9

COMMITTEE REPORT HOUSE

(7)

FURTHER: FINANCE

4/26/85

Date: _____

The Committee on JUDICIARY has had SB 187

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

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 187 (JUD) same title
- and recommends it do pass new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

W. M. Miller

Robert Taylor

W. M. Miller

CHAIRMAN

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

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 187 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST 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 18.50.220(b) is amended to read:

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

13 (1) thereafter, the original certificate and the evidence
14 of adoption or legitimation are not subject to inspection except upon
15 order of the superior court; however, the state registrar [OR AS
16 PROVIDED BY REGULATION; HOWEVER, THE REGULATION] shall allow inspec-
17 tion by an agent of the state or federal government acting in the
18 performance of the agent's [HIS] official duties;

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

23 * Sec. 2. AS 18.50.370 is amended by adding new paragraphs to read:

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

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

28 (16) "child adoption agency" means a child adoption agency
29 licensed under AS 47.35.100;

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

(18) "state registrar" means the state registrar appointed under AS 18.50.030.

* Sec. 3. AS 18.50 is amended by adding new sections to read:

ARTICLE 6. ACCESS TO ADOPTION INFORMATION.

Sec. 18.50.500. ACCESS TO ADOPTION INFORMATION. (a) Except as provided in (b) of this section, upon receipt by the state registrar of a request by an adopted person 18 years of age or older for the identity of a biological parent of the adopted person, the state registrar shall provide the adopted person with an uncertified copy of the original birth certificate of the adopted person if

(1) a consent to disclosure by a parent named in the original birth certificate is on file with the state registrar; or

(2) within 90 days after notice of the request is sent by certified mail, return receipt requested, to the parent or parents named in the original birth certificate, deliverable to the addressee only, a written objection to disclosure is not received from the biological parent or parents named.

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

(1) after the adopted person is at least 17 years of age; or

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

(c) If a parent named in an original birth certificate agrees to disclosure and the other parent named in the birth certificate objects

to disclosure, the state registrar shall remove the name of the objecting parent before providing the birth certificate to an adopted person under (a) of this section.

(d) The state registrar shall, at the request of a biological parent of an adopted child, attach the parent's current name and address to the original certificate of birth of the adopted child. The name and address shall be released to the adopted person in accordance with (a) of this section.

(e) The state registrar shall, at the request of an adopted person over 18 years of age, attach the person's name and address to the person's original certificate of birth for release to the person's biological parent on that parent's request.

Sec. 18.50.510. DESCRIPTIVE INFORMATION REGARDING BIOLOGICAL PARENTS. (a) The state registrar shall, at the request of an adoptive parent of a person adopted on or after January 1, 1986, or of an adopted person 18 years of age or older, release the following information regarding a biological parent named on the original birth certificate of the adopted person when available from the registrar's records:

(1) the age of a biological parent on the birth date of the adopted person;

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

(A) national origin;

(B) ethnic background; and

(C) tribal membership;

(3) the health history of a biological parent and of blood relatives of a biological parent;

(4) the number of years of school completed by a biological parent by the birth date of the adopted person;

1 (5) a physical description of a biological parent on the
2 birth date of the adopted person including height, weight, and color
3 of hair, eyes and skin;

4 (6) the existence of other children of a biological parent;

5 (7) whether a biological parent was alive at the time of
6 adoption;

7 (8) the religion of a biological parent; and

8 (9) any other information provided by a biological parent
9 for disclosure to the child.

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

14 Sec. 18.50.520. ASSISTANCE TO REGISTRAR IN OBTAINING INFORMA-
15 TION. At the request of the state registrar the commissioner shall
16 attempt to obtain information listed under AS 18.50.510 relating to
17 the biological parents of an adopted person regardless of the date of
18 the person's adoption. The disclosure of information requested by the
19 commissioner under this section is not prohibited under AS 25.23.-
20 150(c).

21 * Sec. 4. AS 25.23.060(a) is amended to read:

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

26 (1) the consent form states that the person required to
27 consent to the adoption under AS 25.23.040 has the right to withdraw
28 that consent as provided in AS 25.23.070(b); and

29 (2) the person who signs the consent form acknowledges

receipt of a copy.

* Sec. 5. AS 25.23.080(c) is amended to read:

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

* Sec. 6. AS 25.23.130 is amended by adding a new subsection to read:

(c) Nothing in this chapter prohibits an open adoption. In this subsection, "open adoption" means an adoption that allows visitation between the adoptive person and that person's natural parents or other blood relatives.

* Sec. 7. AS 25.23.150(b) is repealed and reenacted to read:

(b) The papers and records relating to an adoption that are a part of the permanent record of a court are subject to inspection only upon consent of the court. The papers and records relating to an adoption on file with the department, an agency, or an individual are subject to inspection only with consent of all interested persons or by order of a court for good cause shown. Except as provided in this section, adoption records of the Bureau of Vital Statistics are subject to inspection under the provisions of AS 18.50.

* Sec. 8. AS 25.23.150(c) is amended to read:

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

* Sec. 9. AS 25.23 is amended by adding a new section to read:

Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a

petition for adoption is filed with the court the agency or individual placing the person for adoption or, if none, a petitioner shall file with the court for release to the state registrar only the following information, or an explanation of its unavailability, on separate forms provided by the department:

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

(2) background information required under AS 18.50.510;

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

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

(b) The statement and the information provided under (a) of this section shall be attached to the original certificate of birth of the adopted person upon entry of a decree of adoption.

* Sec. 10. This Act takes effect January 1, 1986.

Hein
1/29/86

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, 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 origi-
22 nal 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) After
5 receiving a request by an adopted person 18 years of age or older for
6 the identity of a biological parent of the person, the state registrar
7 shall provide the person with an uncertified copy of the person's
8 original birth certificate, and any change in the biological parent's
9 name or address attached to the certificate, if the biological
10 parent's written consent to disclosure is on file with the state
11 registrar. The state registrar may not disclose the name and address
12 of a biological parent without that parent's written consent, except
13 as required by the court under AS 25.23.150.

14 (b) The state registrar upon request shall provide a consent
15 form to the biological parent of an adopted child. The form shall
16 contain the text of this section and AS 18.50.510 and a statement, to
17 be signed by the biological parent, indicating the biological parent's
18 desires regarding the disclosure of information under (a) of this
19 section. The statement shall provide three options from which the
20 biological parent may choose: (1) the state registrar shall disclose
21 the information at the request of the adopted child; (2) the state
22 registrar may not disclose the information and may not notify the
23 biological parent of a request from the child for the information; or
24 (3) the state registrar may not disclose the information, but shall
25 notify the biological parent at the last known address that a request
26 for the information has been received by the child. A biological
27 parent may submit a new form at any time.

28 (c) If one biological parent consents to disclosure, but the
29 other biological parent objects, the state registrar shall remove the

1 name of the objecting parent before providing the birth certificate to
2 the adopted person under (a) of this section.

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

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

16 (1) the age of the biological parent on the day the adopted
17 person was born;

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

19 (A) national origin;

20 (B) ethnic background; and

21 (C) tribal membership;

22 (3) the medical history of the biological parent and of
23 blood relatives of the biological parent;

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

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

29 (6) the existence of other children of the biological

1 parent;

2 (7) whether the biological parent was alive at the time of
3 adoption;

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

5 (9) other information provided by the biological parent for
6 disclosure to the child.

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

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

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

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

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

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

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

1 court extends it for good cause. The power of attorney does not
2 terminate on the death or disability of the person executing the
3 consent, unless the consent form so states. This subsection may not
4 be construed to alter the requirements of the Interstate Compact on
5 the Placement of Children (AS 47.70).

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

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

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

16 (c) A certified copy of the birth certificate or verification of
17 the birth record of the person to be adopted, if available, the infor-
18 information specified in AS 25.23.185(a), if available, and the required
19 consents, relinquishments, and termination orders shall be filed with
20 the clerk.

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

22 (a) After the filing of a petition to adopt a minor, the court
23 shall fix a time and place for hearing the petition. At least 20 days
24 before the date of hearing, the petitioner shall give notice of the
25 filing of the petition and c the time and place of hearing [SHALL BE
26 GIVEN BY THE PETITIONER] to (1) the department, unless the adoption is
27 by a stepparent of the child; (2) any agency or person whose consent
28 to the adoption is required by this chapter, but who has not consent-
29 ed; and (3) a person whose consent is dispensed with upon any ground

1 mentioned in AS 25.23.050(a)(1), (2), (3), (6), (7), (8) and (9), but
2 who has not consented. The notice to the department shall be accom-
3 panied by a copy of the petition. [IN THIS SUBSECTION, "STEPPARENT"
4 MEANS THE SPOUSE OF A NATURAL PARENT OF THE CHILD RESIDING IN THE SAME
5 HOUSEHOLD.]

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (b) The papers and records relating to an adoption that are a
3 part of the permanent record of a court are subject to inspection only
4 upon consent of the court. The papers and records relating to an
5 adoption on file with the department, an agency, or an individual are
6 subject to inspection only with consent of all interested persons or
7 by order of a court for good cause shown. Except as provided in this
8 section, adoption records of the Bureau of Vital Statistics are sub-
9 ject to inspection under the provisions of AS 18.50.

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

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

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

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

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

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

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

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

1 the Indian Child Welfare Act of 1978).

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

3 Sec. 25.23.185. RECORDS AND INFORMATION. (a) At the time a
4 petition for adoption is filed with the court, the agency or individu-
5 al placing the person for adoption, or the petitioner, shall file with
6 the court, for release to the state registrar of vital statistics, the
7 following information, or an explanation of its unavailability, on
8 forms provided by the department:

9 (1) the address of each parent named on the original birth
10 certificate;

11 (2) background information required under AS 18.50.510;

12 (3) a statement signed by each parent named on the original
13 birth certificate acknowledging receipt of a copy of AS 18.50.500 -
14 18.50.510 and an understanding of those provisions; and

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

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

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

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

1 Sec. 25.23.230. REGULATIONS. The department shall adopt regu-
2 lations necessary to implement the provisions of AS 25.23.185 - 25.-
3 23.240 [AS 25.23.190 - 25.23.240].

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

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

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

8 (a) The office of public advocacy shall

9 (1) perform the duties of the public guardian under AS
10 13.26.360 - 13.26.410;

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

13 (3) provide guardian ad litem services to children in child
14 protection actions under AS 47.17.030(e) and to wards and respondents
15 in guardianship proceedings who will suffer financial hardship or
16 become dependent upon a government agency or a private person or
17 agency if the services are not provided at state expense under AS
18 13.26.112;

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

26 (5) provide legal representation and guardian ad litem
27 services under AS 25.24.310; in cases arising under the Uniform Inter-
28 state Compact on Juveniles (AS 47.15); in cases involving petitions to
29 adopt a minor under AS 25.23.125(b) [AS 25.23.100(j)]; in cases

1 involving petitions to remove the disabilities of a minor under
2 AS 09.55.590; in children's proceedings under AS 47.10.050(a); and in
3 cases involving indigent persons who are entitled to representation
4 under AS 18.85.100 and who cannot be represented by the public de-
5 fender agency because of a conflict of interests.

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

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

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

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

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

19 * Sec. 24. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).

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

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 in-estate 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 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, 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,
24 indicating 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, B, or C)

27 In the event that you are properly notified of my death or
28 otherwise verify that I have died, and my biological child, when
29 18 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
2 instructions:

- 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 C. DO NOT PROVIDE the information requested by the child
8 and DO NOT INFORM the child of my death.

9 My current name and address:

10 _____
11 (Signature of biological parent)

_____ (Please print or type)

12 _____
13 (Date)

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

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

23 (e) An adopted person 18 years of age or older, or a biological
24 parent, may submit to the state registrar a notice of change of name
25 or address. The state registrar shall attach the information to the
26 original birth certificate of the adopted person. If an adopted child
27 is 18 years of age or older, the state registrar shall disclose to the
28 child's biological parent, at that parent's request, the most current
29 name and address of the child that appear in the state registrar's

1 adoption files.

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 information 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 t e 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

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. 2. 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).

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 HOUSE CONCURRENT RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 Suspending Uniform Rule 41(b) of the
6 Alaska State Legislature concerning
7 Senate Bill No. 252, a Bill relating to
8 applications for absentee ballots, to
9 permit its amendment to a bill relating
10 to absentee voting.

11 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 That under Rule 54 of the Uniform Rules of the Alaska State Legisla-
13 ture the provisions of Rule 41(b) of the Uniform Rules are suspended in the
14 consideration of House amendments to Senate Bill No. 252 relating to appli-
15 cations for absentee voting to permit amendments relating to absentee
16 voting.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/3/86

REQUEST

Bill/Resolution No. : HCSSB187 (2nd Judiciary)
 Title : "An Act relating to adoption"

Sponsor : _____
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Health & Social Services
 BRU : DHSS Administrative Services

Components : Vital Statistics

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING : (Thousands of Dollars)

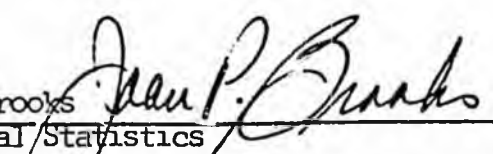
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

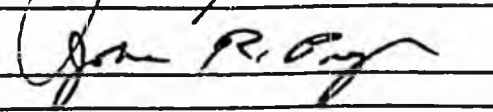
POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

No fiscal impact

Prepared by : Joan P. Brooks  Phone : 465-3391
 Director : Planning/Vital Statistics Date : 2/3/86

Approved by Commissioner :  Date : 2/15/86
 Agency : _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impact Agency(ies)

March 10, 1986

3226 Sherrie Street
Anchorage, Alaska 99504

Mr. Mike M. Miller
Alaska State Legislature
Representative
Pouch V
Capitol Building
Juneau, Alaska 99811

Subject: SB 187

Dear Mr. Miller,

I am writing to you to express my concern regarding SB 187 on adoption records. I am an adult adoptee and am very much against this bill. You are taking adoptees rights away from them. Why, is it so very difficult for you to understand that adoptees need to know who they are, where they came from and most of all medical history of their biological parents? If you are not adopted you know all this and can pass it down to your children we can't. When I go to a Doctor and they ask me about Diabetes, Heart problems, Cancer and etc. I have to say I don't know because I am adopted. I am presently going through a series of tests for Glaucoma and I can't give my Doctor any information at all. I have a set of identical twin boys and have not as yet been able to determine which side of my biological parents this trait would have come from.

I am 32 years old and have been told all of my life that I have been half German and half French and in my search I have found that my birth mother was born in Russia, my birth father was born in Germany. It may come when I locate my birth mother that I don't have any French in me at all. This is very important to me, very important for my children to know.

It is very frustrating to sit in a public place and have someone stare at you the whole time and when you are getting ready to leave come up to you and say are you so and so? I have to answer them and say no and they say do you have a sister that looks like you? I say no and they say boy you sure look like so and so are you sure your not related? Maybe I have a sister out there who looks like me and I don't even know it. It causes a real mixed emotion feeling. I want to know!!

So many of my friends have searched and found and the reunions have been so very successful. When I find my birth mother it will be to get so many questions answered and if a friendship develops that will be an extra, which will be fantastic. I don't want to ruin her life, I don't want to

announce to the world that she gave a baby away, she did what she thought was the best thing for everyone concerned--most of all she gave my parents a child that they could not have between themselves, but the time has come that I want to know me.

Please, just let this bill die, leave things as they are, let adoptees know who their biological parents are without any interference from anyone.

Sincerely,

Nelda Carlson

Mrs. Nelda Carlson

3111 Delta Drive
Anchorage, AK 99502
March 11, 1986

Re: Adoption Bill SB187
From a Concerned Birthmother

Dear Legislator,

Please do not vote for any of the bills that have been formed so far. They all do more harm than good. It is a very difficult issue to understand unless you have had a lot of experience with the situations. I feel I have and everything that is coming out of the legislature is going to cause confusion, close a lot of doors and I hope you will not go along with them. Alaska has been doing fine with the legislation they have now. There has not been a problem at all. I understand one birthmother has contacted the legislature negatively about the present laws. However, she has no right to contact you because that is the way the law was when she relinquished. However, as stated in my editorial, you cannot please everyone. As a legislator, you know that. You cannot even give away money to the residents of the state without objections from some. This is human nature. But you cannot legislate on the wishes of a few and this is what is prompting all of this concern. Leave things the way they are. It benefits everyone. All other states are legislating toward open records and Alaska is voting to close them. Your bills think they are covering all bases by giving the birthmother options when she signs the papers, but in reality, this is not the answer. Without having to go into the psychological state, all the circumstances involved in the relinquishment process, etc. you are going to have to rely on my experience to tell you that this is not the answer. I feel you are opening a can of worms by this present bill that has come out of the house, even though it seems to the lay person that you are "covering your selves". It will only cause confusion, record keeping nightmares and displease more people than you are trying to please. Do not set yourself up as being able to solve this problem. This is a very personal issue. Let the 2 adults involved work out their own problems in the few cases where this is a problem. I have seen it work...

This is such a difficult issue to explain in a letter, but I did want to give you as much input as possible in making your all too important decision. You literally have people's lives in your hands. I have learned a lot about adoptees in my work and know the damage done by not knowing...most recently a suicide. Please don't shut the doors on adoptees. Leave things as they are. Alaska should be proud of their law and their record in this area. Please feel free to call if I can be of any more help on this important decision of yours.

Carol Ann Lute
Carol Ann Lute
W-564-2648, H-248-3602

COPY

3111 Delta Drive
Anchorage, AK 99502
March 7, 1986

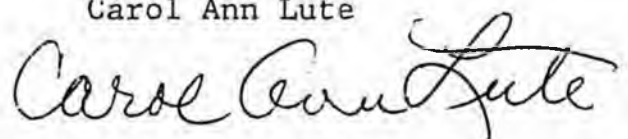
ANCHORAGE TIMES
P.O. Box 40
Anchorage, AK 99510

Dear Editor,

You recently carried an editorial regarding the adoption bill now being discussed in the legislature. The writer seeks to tell the public how the birthmother who gives up her child for adoption feels, and especially speaks out for teenage birthmothers. I am very interested in finding out how many birthmothers he interviewed to substantiate his findings. My educated guess is none. He merely thinks that is how they must feel. However, he is very wrong. But I do not suggest that he go out and try to interview them. Most are not willing to discuss this personal part of their life. Many are not willing to admit they gave up a child for adoption..it is very painful and the public reaction is not very favorable. They are not a visible part of this community, they do not speak out on their opinions. However, I do know many of them and feel compelled to speak for them and set the facts straight. I am a birthmother who gave up a child when I was 17. I thought it was a forever thing. When she was 22 I learned about an organization called ALMA that helps you search and this is what I wanted to do. No one in my family knew, but my desire to know about my daughter overwhelmed my desire for privacy. However, this makes me no expert. I now help other birthmothers search for their adult children and I help adoptees search for their birthparents. I also am a volunteer for one of the unwed mothers' programs in this city. Those contacts give me the right to represent birthmothers, both young and old. I am asked to talk to teenage mothers and tell them my experience of relinquishment and later finding my daughter. It was not a forever thing. This encourages girls to consider adoption. Most birthmothers want to be reunited. A study was done that substantiates my personal findings. Around 85% wish to be found and have a relationship. About 12% answered the adoptees' questions about their background, heritage and medical history but wished no ongoing relationship. The other 3% did not want to be found. On what controversial subject can you find that high a percentage agreeing. We pass many laws with a much higher percentage of opposition. We must always go with the majority. That is democracy and 85% constitutes a healthy majority.

HOWEVER, IF the writer had been correct and most birthmothers wanted anonymity, there would then be a conflict of rights. A decision would then have to be made as to whose rights were more important. Unquestionably, the adoptees right to know her heritage, her medical history, her biological parentage supercedes my right to privacy. But fortunately there is no conflict.

Carol Ann Lute





Editorials

Robert B. /
President and

Adoption

A BILL pending before the legislature takes a compassionate look at an old problem, offering a variety of solutions to the plight faced by parents who give up their children for adoption.

Searching for one's roots has been romanticized in recent years, with happy reunions becoming a stock-in-trade of the news media. But not all parents want to be reunited with their natural children, many of whom were born when the parents were children themselves.

Under present state law, adopted children may obtain their original birth certificates, and discover the identity of their biological parents, upon reaching the age of 18. But no protection is extended to those parents who don't want to be found.

THE NEW BILL would allow parents to instruct the state to either provide or not provide to their natural child a copy of the original birth certificate and the parents' names and addresses. In other words, the natural parents could say yea or nay to the request. Even if they wish to remain anonymous, certain information about them, including their race and nationality and the family's medical history, would be available to the child or

his adoptive parents.

Parents would not need to make this decision at the time of adoption. They could delay the decision until such time as the child requests the information.

Freedom of choice cuts both ways under this bill. An adopted child who has turned 18 could instruct the state to give his natural parents his name and whereabouts should they attempt to find him.

OPPONENTS of the measure say it discriminates against adopted children who try to find their biological parents. But that's not the way we read it.

On the contrary, it's important to understand — and accept — the fact that parents who give up a child sever that parent-child relationship. This is a difficult and emotional business, no doubt about it. But it is a decision the parents together, or perhaps most often the mother alone, must make in the hope that it will be best in the long run for the child.

And there is a compelling reason, it seems to us, to respect the desire of some parents to remain forever unknown. To suggest otherwise might give distraught young mothers a good argument for abandoning their babies on church steps.

and Midland-Odessa areas; most directly dependent on the oil industry. There is one story after another of massive layoffs, bizarre vacancy rates in office buildings, the collapse of the real estate market.

But no element of the Texas economy is immune to the effects of this kind of a decline in oil. That includes the state government, which loses an estimated \$100 million for every \$1 decline in the price of crude oil. In this case that means Texas is facing a revenue shortfall estimated by state comptroller Bob Bullock of \$1.3 billion on a budget

escape serious consequences with state spending. The more this appears, less-risky alluring a special legislature to raise. The most White is the continued could cause sooner than meaning du general election September. The early paign are s

The CIA's hand in

WASHINGTON — A spate of reports coming out of Honduras in recent weeks provides evidence of a disturbing pattern of clandestine activity on the part of the CIA in that Central American nation.

Revelations of heightened activity there by both the CIA and U.S. military forces have become routine and are hardly surprising because Honduras has the misfortune to be located between El Salvador and Nicaragua.

But the fresh accounts, corroborated by knowledgeable officials in both the United States and Honduras, are especially troublesome because they portray the CIA as:

- Taking no remedial action after it learned that Honduran commando squads trained by the CIA were killing and torturing people detained for political reasons.

- Playing a covert but crucial role in the events leading to the removal early this year of the Honduran military commander who ordered the commando squads disbanded in 1984.

The Honduran troops assigned to those squads were partic-

In Wa



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Ms. Joanne H. Lewis
SR 3392A
Wasilla, AK 99687

March 5, 1986

The Honorable M. Mike Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

Dear Sir:

I urge opposition to Senate Bill 187: "an act relating to adoption..." As an adult adoptee, I find this bill demeaning to my dignity.

Rather than "protecting" the adopted person, as its proponents suggest, it subjects the adoptee to possible physical and psychological trauma. This bill, in opposition to the current statutes and regulations, denies the adult adoptee free access to the original birth certificate, which would contain the birth parents names (as known at the time of the adoption). This knowledge, in itself, is emotionally uplifting to the adoptee, who until this time has had only a pseudo-identity with no knowledge of a biological connection to any other human being - adoptees feeling they were "not born, but adopted". The denial of rights to ones own birth certificate is a denial of ones true existence - we were not conceived by two human beings, we were a product of an adoption agency and the court - hence, we came to be with our adoptive families. No matter how strong the love and ties with our adoptive families, we have an innate need to know our heritage. As the adoptee becomes an adult with all the rights, privileges, and responsibilities that come with age, we do not need, nor want, the "protection" from our parents, social workers, the courts, or legislators - "protecting" us from our own needs.

Legislators have also stated that they are "protecting" birth parents from the "unwanted intrusion" of the adoptee. As heard in the public hearings on March 1, 1986, birth parents very poignantly made it known that they do not need, nor want, to be "protected". They have lived 18 plus years with the knowledge that they had given birth, relinquished the child, and would probably never know that child. Though many face these facts bravely, they have a deep-felt need to know if the child is "OK". They tell of watching children, then adults, as the years go by, wondering if one of them could be their child. They hear of a child kidnaped, injured, killed - could that be their child. Yes, they may want "confidentiality" - but, as they say, from the "public", not their child! The decision to know that "child", now adult, is their's - a decision to be made between two people, the parent and the child - without interference from "strangers". For the state to step in and attempt to make that decision for the birth parent, without the birth parents knowledge or consent, is not "protection" but a judgmental proclamation of guilty - Sentence: Life.

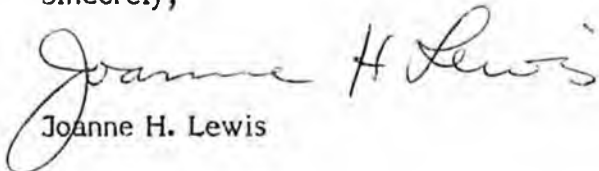
As non-adopted persons feel there must be a "reason" for adoptees to know, not only their heritage, but their birth parents, the most compelling reason is medical need. Though the proposed legislation very generously allows for a "medical history", this information is just that, "history", after 18 plus years. Think back to the time of your birth. How old were your parents? Were your grandparents living and well? The chances are that your parents were in their early to mid 20's and in good health - no serious illness, as yet. Your

March 5, 1986
Page 2

grandparents were probably doing well at that time too, as they would only be in their 40's or 50's. Now, advance in time, five years, ten years, twenty years - what can you add to your family medical history now? Cancer, heart disease, kidney disease, diabetes, genetic defects not previously known, etc. Though catastrophic to the sufferer, you can do something about it - you can give and update this medical history to your personal physician and practice preventive medicine. The adoptee does not have the benefit of updating the medical history without actually searching for and contacting the birth parent and asking for an update. My "medical history", at the time of my adoption (1950), as given to me by the state adoption agency said, "mother in good health, appendectomy at age 10, occasional bronchitis." What it did not say - "1962-hereditary degenerative bone disease (grandmother, mother, aunt, uncle), 1968-heart disease (grandfather), 1969-lung cancer (grandmother), 1972-stroke (mother), etc. What family medical history did I tell my personal physician in these interim years? "Unknown -adopted!" The "reason" we need to know goes much deeper than a "medical history", but the explanations come hard as adoptees have difficulty conveying their inner need, the "pull" back to their conception.

So, I ask that you re-evaluate Senate Bill 187, take into consideration the "openness" of today's society, and free the birth parent from the life-time of guilt and suffering that had been imposed upon them by the morals of a society past. Recognize the adoptee as an adult with the same rights to know their true genealogy and freedom of choice to follow their dreams. Do not allow Senate Bill 187 to pass.

Sincerely,


Joanne H. Lewis

DECISIONS

BIRTH PARENTS MADE A DECISION
REGARDING THE FUTURE OF THEIR CHILD
TO SIGN A DOCUMENT
RELINQUISHING THE CHILD FOR ADOPTION.

ADOPTIVE PARENTS MADE A DECISION
TO SIGN A DOCUMENT
TO PARENT THROUGH ADOPTION.

ADOPTEES, BEING OF MINOR AGE,
MADE NO DECISION,
SIGNED NO DOCUMENT
REGARDING THEIR FUTURE.

IT IS NOW THE ADULT ADOPTEES' TIME
TO MAKE A DECISION,
REGARDING THEIR FUTURE AND
THE FUTURE OF THEIR PROGENY,
A DECISION TO LEARN ABOUT THEIR PAST,
UNHINDERED BY COURTS,
LEGISLATORS, AGENCIES AND SOCIETY.

By Joanne Lewis

Senate Health, Education and Social Services Committee
Senator Bettye Fahrenkamp, Chair
Senate Bill 187 - Adoption Records
March 21, 1985

Section Analysis
Alaska Chapter, National Association of Social Workers

- Section 1 -Provides that a court order is required for inspection of adoption records and deletes the State Registrar's authority to adopt regulations with respect to such inspection. (It is currently the practice of the State Registrar to release original birth certificates by regulation.)
- Section 2 -Provides for access to adoption information and requires the State Registrar to notify biological parents by certified mail (addressee only) of a request for identifying information made by adult adoptees.
- Permits release of identifying information to adult adoptee unless State Registrar has received a written objection to the release from the biological parent within 90 days.
- Requires the State Registrar to attach to the original birth certificate the name and address of the adoptee and/or the biological parent if they request it and then enables release of the name and address of the adoptee to the biological parent and the biological parent to the adoptee.
- Permits the release of eight items of non-identifying information to adoptive parents and/or adoptees 18 years of age or older on request.
- Requires that the State shall provide the non-identifying information on a standard form which may not include name or other identifying information.
- Requires that the Department of Health and Social Services attempt to obtain the eight non-identifying information items upon request.
- Provides definitions
- Section 3 -Amends A.S. 25.23.060 to provide that consent to adoption forms must state the person's right to withdraw the consent and also that a copy of the consent form be provided to the person.
- Section 4 -Includes the eight non-identifying information items as information which must be filed with the court clerk under A.S. 25.23.080(c).
- Section 5 -Clarifies access to adoption records under A.S. 25.23.150.
- Section 6 -Prohibits the disclosure of the name of either an adoptee or a biological parent.

Senate HESS
Senate Bill 187
March 21, 1985
Section Analysis
page 2

- Section 7
- Requires persons or agencies placing children for adoption to obtain for the State Registrar, the eight items of non-identifying information and a statement that the biological parent is aware of the release of information procedures. Provides that the State Registrar must attach current information on biological parents and adoptees to the original birth certificate at any time.
 - Requires that the biological parent sign a statement that they have received a copy of the provisions which describe the notification procedures under A.S. 18.05.10 and that they are aware that they and the adoptee (upon reaching adulthood) can attach their name and address to the original birth certificate for release to the other at any time.
 - Requires that the non-identifying information shall be attached to the original birth certificate upon entry of an adoption decree.

Cecilia Kleinkauf, Lobbyist
Alaska Chapter, National Association of Social Workers

SENATE BILL NO. 187

"An Act relating to adoptions; and providing for an effective date."

Senate Bill No. 187 amends the Vital Statistics Act and the adoption statute relating to access to adoption records and consent procedures. AS 18.50 would be amended to include a new section which would provide the identity of a biological parent to an adopted person 18 years of age or older once written notice has been made by certified mail to the biological parent. It should be noted that as of the effective date of this legislation, the State Registrar would be attempting to contact a biological parent named on a birth certificate from 1967 or from prior years. On many of those original birth records no mailing address appears and often just a residence village is listed. A teen age mother in the 60's may now be married and using another name. The Department feels that after nearly two decades, the receipt rate of the certified mail will be very minimal.

The Department agrees that the non-identifying information listed under Sec. 18.50.510 (a) 1-8 will be meaningful and useful to adoptees and adoptive parents. Because the majority of placements are through private agencies and attorneys, some of the information is not likely to be available. Nevertheless, the effort will be made to obtain this information. For adoption petitions filed after January 1, 1986, the information will be provided to the court unless it is unavailable, which will be explained.

The Department of Health and Social Services supports passage of Senate Bill No. 187.

RECOMMENDED BY: Joan P. Brooks
JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL STATISTICS

DATE: Feb. 28, 1985

RECOMMENDED BY: Patricia R. Alexander
PATRICIA R. ALEXANDER
DIRECTOR
DIVISION OF PLANNING

DATE: 3/4/85

APPROVED BY: John R. Pugh
JOHN R. PUGH
COMMISSIONER

DATE: 3/5/85

§ 25.20.130

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§ 25.23.010

MARITAL AND DOMESTIC RELATIONS

§ 25.23.020

Chapter 23. Adoption.

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Collateral references. — 2 Am. Jur. 2d, Adoption, § 1 et seq.

Proof: equitable adoption, 18 Am. Jur. POF2d, pp. 531-609.

2 C.J.S., Adoption of Persons, § 1 et seq.
Modern status of law as to equitable adoption or adoption by estoppel, 97 ALR3d 347.

Criminal liability of one arranging for adoption of child through other than licensed child placement agency ("baby broker acts"), 3 ALR4th 468.

Validity and application of statute authorizing change in record of birthplace of adopted child, 14 ALR4th 739.

Sec. 25.23.010. Who may be adopted. Any person may be adopted. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.010. Renumbered in 1982.

Collateral references. — Adoption of adult, 21 ALR3d 1012.

Sec. 25.23.020. Who may adopt. (a) The following persons may adopt:

- (1) a husband and wife together;
- (2) an unmarried adult;
- (3) the unmarried father or mother of the person to be adopted;
- (4) a married person without the other spouse joining as a petitioner, if the person to be adopted is not the other spouse, and if
 - (A) the other spouse is a parent of the person to be adopted and consents to the adoption; or
 - (B) the petitioner and the other spouse are legally separated; or
 - (C) the failure of the other spouse to join in the petition or to agree to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

(b) Nothing in this section affects legitimation under AS 25.20.050. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.020. Renumbered in 1982.

Collateral references. — Conflict of laws as to contract to adopt, 81 ALR2d 1128.

Validity and enforcement of agreement

by foster parents that they will not attempt to adopt foster child, 78 ALR3d 770.

Age of prospective adoptive parent as factor in adoption proceedings, 84 ALR3d 665.

Sec. 25.23.030. Venue. (a) Proceedings for adoption shall be brought in the superior court for the district in which, at the time of filing or granting the petition, the petitioner or the person to be adopted resides or is in military service, or in which the agency having the care, custody, or control of the minor is located.

(b) If the court finds in the interest of substantial justice, under AS 22.10.040, that the matter should be heard in another judicial district, the court may transfer, stay or dismiss the proceeding in whole or in part on any conditions that are just. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.030. Renumbered in 1982.

Sec. 25.23.040. Persons required to consent to adoption. (a) Unless consent is not required under AS 25.23.050, a petition to adopt a minor may be granted only if written consent to a particular adoption has been executed by

(1) the mother of the minor;

(2) the father of the minor, if the father was married to the mother at the time the minor was conceived or at any time after conception, the minor is his child by adoption, or he has otherwise legitimated the minor under the laws of the state;

(3) any person lawfully entitled to custody of the minor or empowered to consent;

(4) the court having jurisdiction to determine custody of the minor, if the legal guardian or custodian of the person of the minor is not empowered to consent to the adoption;

(5) the minor, if more than 10 years of age, unless the court in the best interest of the minor dispenses with the minor's consent; and

(6) the spouse of the minor to be adopted.

(b) A petition to adopt an adult may be granted only if written consent to adoption has been executed by the adult and the adult's spouse or by the guardian or conservator of an incapacitated adult. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.040. Renumbered in 1982.

er AS 25.20.050.

NOTES TO DECISIONS

Editor's notes. — Many of the cases cited in the notes below were decided under former AS 20.10.020.

Rights of parent-child relationship are natural, fundamental. — The correlative rights and duties inherent in the parent-child relationship are natural rights of such fundamental importance that it is generally held that parents should not be deprived of them "except for grave and weighty reasons." Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Right of parent not absolute. — The right of a parent with respect to his child is not an absolute, paramount, proprietary right or interest in or custody of the child. Hammer v. Hammer, 16 Alaska 203 (1956).

The legislature did not make the right of parental consent absolute and unqualified. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Strict construction. — Statutes relating to adoption, being in derogation of the common law, must be strictly construed. Hammer v. Hammer, 16 Alaska 203 (1956).

Duty of state as "parens patriam". — The legislature may interpose between the parent and the child such regulations as it may deem best for the welfare of either by reason of the duty of the state as "parens patriam" to guard the interests of such children, the welfare of which is always the paramount consideration. Hammer v. Hammer, 16 Alaska 203 (1956).

Reason for consent provisions. — In an adoption proceeding, where an absolute severance of the parent-child relationship is sought, the consent provisions are designed to protect the natural rights of a parent to the custody, society, comfort, and services of the child. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

"Custody" has no fixed legal significance. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

It involves a variety of parental rights and duties which vary according to the circumstances of the relationship of the child to the parent. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

"Custody" pertains not only to the parental control of the child, but is inseparably linked to the parent's rights of access and companionship with his offspring. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

A divorced parent who has the right to visit his children must consent to the adoption of his children. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973); In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974).

When acknowledgment of paternity can be filed. — Under the existing provisions of AS 25.20.050(a) and subsection (a) of this section, an acknowledgment of paternity can be filed at any time before the entry of a decree of adoption. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

The filing of an adoption petition does not preclude the biological father from thereafter filing a written acknowledgment of his paternity of the subject child, thereby legitimizing him. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Interpretation of the relevant statutes precludes additional consideration of the best interests of the child in determining whether a father may legitimate the adoptee during the pendency of an adoption proceeding and so foreclose adoption absent his consent. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Stated in S.O. v. W.S., Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

Cited in R.N.T. v. J.R.G., Sup. Ct. Op. No. 2696 (File No. 6770), P.2d (1983).

Collateral references. — Guardian's arbitrary and unreasonable withholding of consent to adoption, 23 Am. Jur. POF2d, pp. 163-202.

Notice to parents of adoption of child, 24 ALR 416; 76 ALR 1077.

Consent of divorced parents as essential to adoption, 91 ALR 1387; 47 ALR2d 824.

Consent by public authority or person other than parent having control of child as necessary to valid adoption, 104 ALR 1464.

Necessity of consent of guardian to adoption of child, 104 ALR 1465.

Sufficiency of parent's consent to adoption of child, 24 ALR2d 1127.

Mental illness and the like of parents as grounds for adoption of their children, 45 ALR2d 1379.

Consent of natural parents as essential to adoption where parents are divorced, 47 ALR2d 824.

Necessity of securing consent of parents

of illegitimate child to its adoption, 51 ALR2d 497.

What constitutes undue influence in obtaining a parent's consent to adoption of child, 50 ALR3d 918; 8 Am. Jur. POF2d, pp. 481-513.

What constitutes "duress" in obtaining parent's consent to adoption of child or surrender of child to adoption agency, 74 ALR3d 527.

Adoption of child in absence of statutorily required consent of public or private agency or institution, 83 ALR3d 373.

Sec. 25.23.050. Persons as to whom consent and notice not required. (a) Consent to adoption is not required of

(1) for purposes of this section, a parent who has abandoned a child for not less than six month ;

(2) a parent of a child in the custody of another, if the parent for a period of at least one year has failed significantly without justifiable cause, including but not limited to indigency,

(A) to communicate meaningfully with the child, or

(B) to provide for the care and support of the child as required by law or judicial decree;

(3) the father of a minor if the father's consent is not required by AS 25.23.040(a)(2);

(4) a parent who has relinquished the right to consent under AS 25.23.180;

(5) a parent whose parental rights have been terminated by order of the court under AS 47.10.080(c)(3);

(6) a parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent;

(7) any parent of the person to be adopted, if the person is 19 or more years of age, and the court dispenses with the consent of the parent;

(8) any guardian or custodian specified in AS 25.23.040(a)(3) or (4) who has failed to respond in writing to a request for consent for a period of 60 days or who, after examination of the guardian's or custodian's written reasons for withholding consent, is found by the court to be withholding consent unreasonably; or

(9) the spouse of the person to be adopted, if the requirement of consent to the adoption is waived by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

(b) Except as provided in AS 25.23.100, notice of a hearing on a petition for adoption need not be given to a person whose consent is not required or to a person whose consent or relinquishment has been filed with the petition. (§ 1 ch 84 SLA 1974, am; § 4 ch 63 SLA 1977)

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Revisor's notes. — Formerly AS 20.15.050. Renumbered in 1982.

NOTES TO DECISIONS

- I. General Consideration
- II. When Consent not Required
 - A. Generally
 - B. Abandonment

I. GENERAL CONSIDERATION.

Editor's notes. — Many of the cases cited in the notes below were decided under former AS 20.10.040.

Strict construction. — See In re K.M.M. & B.M.M., Sup. Ct. Op. No. 2095 (File No. 4321), 611 P.2d 84 (1980).

Statutes relating to adoption, being in derogation of the common law, must be strictly construed. Hammer v. Hammer, 16 Alaska 203 (1956).

This section is modeled after a provision of the Uniform Adoption Act. In re K.M.M. & B.M.M., Sup. Ct. Op. No. 2095 (File No. 4321), 611 P.2d 84 (1980).

Duty of state as "parens patriae." — See same catchline in note to AS 25.23.040.

Cited in In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), 597 P.2d 518 (1979); S.O. v. W.S., Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

II. WHEN CONSENT NOT REQUIRED.

A. Generally.

Legislative intent as to consent. — The legislature intended that there should not be a conclusive termination of parental rights by adoption without either parental consent or a prior forfeiture of parental rights. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Reason for consent provisions. — See Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Right of parental consent not absolute. — The legislature did not make the right of parental consent absolute and unqualified. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Legislative judgment implicit in section. — Implicit in this section is the legislative judgment that a parent who has manifested an inability or unwillingness to discharge the rights and duties of a parent shall be considered to have forfeited his right to obstruct an adoption. Delgado

v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

Consent of father not dispensed with on ground of child's best interest. — The supreme court rejected the contention that the required consent of the child's father may be dispensed with if it is in the best interest of the child to do so. In re L.A.H., Sup. Ct. Op. No. 1866 (File No. 3853), 597 P.2d 513 (1979).

The child's best interests are not relevant to a determination of whether a natural parent's consent can be dispensed with by the court. D.L.J. v. W.D.R., Sup. Ct. Op. No. 2433 (File No. 5411), 635 P.2d 833 (1981).

See similar notes under analysis line II B, "Abandonment."

Conduct causing loss of right to consent. — Parental conduct which causes loss of a parent's right to consent to adoption must be willful. R.N.T. v. J.R.G., Sup. Ct. Op. No. 2696 (File No. 6770), P.2d (1983).

"Custody" has no fixed legal significance. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

It involves a variety of parental rights and duties which vary according to the circumstances of the relationship of the child to the parent. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

"Custody" pertains not only to the parental control of the child, but is inseparably linked to the parent's rights of access and companionship with his offspring. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973).

A divorced parent who has the right to visit his children must consent to the adoption of his children. Delgado v. Fawcett, Sup. Ct. Op. No. 953 (File No. 1594), 515 P.2d 710 (1973); In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974).

The fact that a divorce decree awards custody to one parent, and "visitation rights" to the other may in no way reflect

its adoption. 31

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The best interests of the child are relevant to the latter question in the test for abandonment, because it is indicative of a breakdown of the parent-child relationship if the child's best interests are promoted by legal severance of the relation. In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974).

But they may not always be directly relevant to the question of the parent's disregard of his obligations. This part of the test can only be satisfied by proof that the parent's conduct evidences a conscious disregard of his obligations. In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974); In re V.M.C., Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

Abandonment finding cannot be based solely on child's best interests. — The best interests of the child are a valid factor in deciding an "abandonment" allegation. However, an abandonment finding cannot be predicated solely on the best interests of the child. In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974).

Though the best interests of the child are a valid consideration in deciding the question of abandonment, they cannot be the sole determinant. In re V.M.C., Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

Evidence relating solely to the question of what disposition may be in the child's best interests — evidence pertinent primarily to an inquiry into the present vitality, strength and stability of the parent-child relationship — is ultimately inconsequential in the absence of proof of the requisite prior conduct. In re V.M.C., Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

Determination must be initially predicated on objective evidence. — In deciding the question of abandonment the trial court must initially predicate its determination upon objective evidence of parental conduct indicating a conscious disregard of the parental role. In re V.M.C., Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

Conclusion of nonabandonment based solely upon evidence of the parent's subjective intent not to abandon his responsibilities would be reversible error. In re V.M.C., Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

Father held not to have "abandoned" daughter and not unfit as parent. — See In re A.J.N., Sup. Ct. Op. No. 1071 (File No. 2103), 525 P.2d 520 (1974).

Collateral references. — Relinquishment of parental claim to child-adoption proceeding, 10 Am. Jur. POF2d, pp. 635-668.

Notice to parents of adoption of child, 24 ALR 416; 76 ALR 1077.

What constitutes abandonment or

desertion of child by its parent or parents within purview of adoption laws, 35 ALR2d 662; 78 ALR3d 712.

Parent's involuntary confinement, or failure to care for child as result thereof as permitting adoption without consent, 78 ALR3d 712.

Sec. 25.23.060. How consent is executed. (a) The required consent to adoption shall be executed at any time after the birth of the child in the presence of the court or in the presence of a person authorized to take acknowledgments.

(b) A consent which does not name or otherwise identify the adopting parent is valid if the consent is executed in the presence of the court or a person authorized to take acknowledgments and contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or other identification of the adopting parent. (§ 1 ch 84 SLA 1974)

§ 25.23.060

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Revisor's notes. — Formerly AS
20.15.060. Renumbered in 1982.

NOTES TO DECISIONS

Substantial compliance with consent requirements. — When it is clear that the statutory purpose has been fulfilled, substantial compliance with the requirements governing consent to adoption is sufficient. S.O. v. W.S., Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

Collateral references. — Consent of divorced parents as essential to adoption, 91 ALR 1387; 47 ALR2d 824.
What constitutes "duress" in obtaining parent's consent to adoption of child or surrender of child to adoption agency, 74 ALR3d 527.

Sec. 25.23.070. Withdrawal of consent. (a) A consent to adoption may not be withdrawn after the entry of a decree of adoption.

(b) A consent to adoption may be withdrawn before the entry of a decree of adoption, within 10 days, by delivering written notice to the person obtaining the consent, or after the 10-day period, if the court finds, after notice and opportunity to be heard is afforded to petitioner, the person seeking the withdrawal, and the agency placing a child for adoption, that the withdrawal is in the best interest of the person to be adopted and the court orders the withdrawal. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS
20.15.070. Renumbered in 1982.

NOTES TO DECISIONS

Determining what is in child's best interest. — When a natural parent consents to his or her child's adoption and later seeks to withdraw such consent, no parental preference is to be applied in determining what is in the child's best interest. S.O. v. W.S., Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).
withdraw consent within 10 days because a valid consent may be given without the person whose consent is requested first being advised of his or her statutory or constitutional right to refuse. B.J.B.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).

For differences between the determination of a child's best interests under the Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963, and the analysis required by state law when a parent who has consented to an adoption seeks to regain custody of his or her child on termination of the adoptive relationship, see A.B.M. v. M.H., Sup. Ct. Op. No. 2567 (File No. 6200), P.2d (1982).
The inclusion of a statement of right to withdraw requirement of AS 20.15.180(b)(1) (now AS 25.23.180(b)(1)) is not applicable to a consent to adoption. B.J.B.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).

Notice of right to withdraw consent not required. — Subsection (b) of this section is not unconstitutional in its failure to require notice of the statutory right to
Hearing. — The statute clearly calls for a hearing on the best interest of the child if written notice of withdrawal is filed at any time prior to entry of the decree of adoption. B.J.E.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).

The natural mother is entitled to a hearing to determine whether withdrawal

of her consent is in the best interest of the child. B.J.B.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).
Once a notice of withdrawal was filed,

the court's failure to afford the natural mother a hearing was error. B.J.B.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).

Collateral references. — Withdrawal of consent previously given by natural parent or other person whose consent is necessary to adoption of child, 138 ALR 1038; 156 ALR 1011.

Right of natural parent to withdraw valid consent to adoption of child. 74 ALR3d 421.

Mistake or want of understanding as ground for revocation of consent to adoption or of agreement releasing infant to adoption placement agency, 74 ALR3d 489.

Sec. 25.23.080. Petition for adoption. (a) The caption of a petition for adoption shall be styled substantially "In the Matter of the Adoption of". The person to be adopted shall be designated in the caption under the name by which the person is to be known if the petition is granted. If the child is placed for adoption by an agency, any name by which the child was previously known may not be disclosed in the petition or in the decree of adoption.

(b) A petition for adoption shall be signed and verified by the petitioner, filed with the clerk of the court, and state

- (1) the date and place of birth of the person to be adopted, if known;
- (2) the name to be used for the person to be adopted;
- (3) the date of placement of the minor and the name of the person placing the minor;
- (4) the full name, age, place and duration of residence of the petitioner;
- (5) the marital status of the petitioner, including the date and place of marriage, if married;
- (6) that the petitioner has facilities and resources, including those available under a hard-to-place child subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the person to be adopted;
- (7) a description and estimate of value of any property of the person to be adopted; and
- (8) the name of any person whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of the consent normally required to the adoption.

(c) A certified copy of the birth certificate or verification of the birth record of the person to be adopted, if available, and the required consents, relinquishments, and termination orders shall be filed with the clerk. (§ 1 ch 84 SLA 1974; am § 1 ch 36 SLA 1977)

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For the natural error. B.J.B.A. v. 2220 (File No. 80).

Revisor's notes. — Formerly AS 20.15.080. Renumbered in 1982.

NOTES TO DECISIONS

Understanding as consent to adopting infant to agency, 74 ALR3d

Separate determination as to status of consents prior to decree. — The adoption statutory scheme clearly contemplates a separate determination by the court as to the status of required or

excused consents prior to the granting of the decree of adoption. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

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Collateral references. — Mental illness and the like of parents as ground for adoption of their children, 45 ALR2d 1379.

of adoptee or adoptive parent for purposes of adoption, 33 ALR3d 176.

Religion as factor in adoption proceedings, 48 ALR3d 383.

Change of child's name in adoption proceeding, 53 ALR2d 927.

Marital status of prospective adopting parents as factor in adoption proceedings, 2 ALR4th 355.

Requirements as to residence or domicil

d by the petitioner, if known;

Sec. 25.23.090. Report of petitioner's expenditures. (a) Except as specified in (b) of this section, the petitioner in any proceeding for the adoption of a minor shall file, before the petition is heard, a full accounting report in a manner acceptable to the court of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The report shall show any expenses incurred in connection with

- (1) the birth of the minor;
- (2) placement of the minor with petitioner;
- (3) medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement; and
- (4) services relating to the adoption or to the placement of the minor for adoption which were received by or on behalf of the petitioner, either natural parent of the minor, or any other person.

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(b) This section does not apply to an adoption by a stepparent whose spouse is a natural or adoptive parent of the child.

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(c) Any report made under this section must be signed and verified by the petitioner. (§ 1 ch 34 SLA 1974)

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Revisor's notes. — Formerly AS 20.15.090. Renumbered in 1982.

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Sec. 25.23.100. Notice of petition, investigation and hearing. (a) After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least 20 days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the petitioner to (1) the department, unless the adoption is by a stepparent of the child; (2) any agency or person whose consent to the adoption is required by this chapter, but who has

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not consented; and (3) a person whose consent is dispensed with upon any ground mentioned in AS 25.23.050(a)(1), (2), (3), (6), (7), (8) and (9), but who has not consented. The notice to the department shall be accompanied by a copy of the petition. In this subsection, "stepparent" means the spouse of a natural parent of the child residing in the same household.

(b) Notice to persons specified in AS 25.23.050 shall include a statement of the grounds under which consent to the adoption is not required. Notice given under this section shall be adequate to give actual notice of the proceedings, taking into account education and language differences which are known or reasonably ascertainable by the petitioner or the department. The notice of hearing shall contain all names by which the minor has been identified and shall state in summary form the effect of a decree of adoption. Notice shall be given in the manner appropriate under rules of civil procedure for the service of process in a civil action in this state or in any manner the court by order directs. Notice by publication may not be given. Proof of the giving of the notice shall be filed with the court before the petition is heard, subject to the time limitations in (e) of this section.

(c) A reasonable investigation shall be made by the department or the petitioner to assure that all persons listed in (a) of this section are located and given notice of the proposed adoption. The investigation shall be conducted so that the rights of all parties are protected, including but not limited to the right to privacy and the right to be notified. An affidavit describing the investigation shall be filed with the court if all persons listed in (a) of this section are not located.

(d) Except as provided in (g) and (i) of this section, an investigation shall be made by the department or any other qualified agency or person designated by the court to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.

(e) A written report of the investigation shall be filed with the court by the investigator before the petition is heard so long as the report is filed within 30 days of the designation by the court of the department, agency or person to make the investigation.

(f) The report of the investigation shall contain an evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(g) Unless directed by the court, an investigation and report is not required in cases in which an agency is a party or joins in the petition for adoption, a stepparent is the petitioner, the person to be adopted is within the fourth degree of lineal or collateral consanguinity to the petitioner, or the person to be adopted is an adult. In other cases, the

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court may waive the investigation only if it appears that waiver is in the best interest of the minor and that the adoptive home and the minor are suited to each other. The department which is required to consent to the adoption may give consent without making the investigation.

(h) The department or the agency or persons designated by the court to make the required investigation may request other departments or agencies within or outside of this state to make investigations of designated portions of the inquiry as may be appropriate and to make a written report as a supplemental report to the court and shall make similar investigations and reports on behalf of other agencies or persons designated by the courts of this state or another state.

(i) After the filing of a petition to adopt an adult the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any person whose consent to the adoption is required, but who has not consented. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the persons involved.

(j) Appointment of a guardian ad litem or attorney for a person to be adopted who is a minor shall be made under the terms of AS 25.24.310. (§ 1 ch 84 SLA 1974; am § 4 ch 167 SLA 1975; am § 1 ch 150 SLA 1976)

Revisor's notes. — Formerly AS 20.15.100. Renumbered in 1982.

NOTES TO DECISIONS

Separate determination as to status of consents prior to decree. — The adoption statutory scheme clearly contemplates a separate determination by the court as to the status of required or excused consents prior to the granting of the decree of adoption. In re L.A.H., Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Applied in In re JJW, Sup. Ct. Op. No. 1439 (File No. 3264), 565 P.2d 842 (1977).

Quoted in B.J.B.A. v. M.J.B., Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980); A.B.M. v. M.H., Sup. Ct. Op. No. 2567 (File No. 6200), P.2d (1982).

Cited in S.O. v. W.S., Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

Sec. 25.23.110. Required residence of minor. A final decree of adoption may not be issued until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home and the department or any other qualified agency or person designated by the court has had an opportunity to observe or investigate the adoptive home. This observation or investigation is not required in proceedings where an investigation is not required under AS 25.23.100(g) and (i). (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.110. Renumbered in 1982.

Collateral references. — Requirements as to residence or domicile of adoptee

or adoptive parent for purposes of adoption, 33 ALR3d 176.

Sec. 25.23.120. Hearing. (a) The presence of the petitioner and the person to be adopted is not required at the hearing on the petition unless ordered by the court.

(b) The court may continue the hearing from time to time to permit further observation, investigation, or consideration of any facts or circumstances affecting the granting of the petition.

(c) If at the conclusion of the hearing the court determines that the required consents have been obtained or excused and that the adoption is in the best interest of the person to be adopted, it may issue a final decree of adoption.

(d) If the requirements for a decree under (c) of this section have not been met, the court shall dismiss the petition and determine, in the best interests of the minor, the person including the petitioner to have custody of the minor. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.120. Renumbered in 1982.

NOTES TO DECISIONS

Editor's notes. — *Hickey v. Bell*, Sup. Ct. Op. No. 209 (File No. 403), 391 P.2d 447 (1964), cited in the notes below, was decided under former AS 20.10.100.

Subsection (a) allows for court discretion. — While subsection (a) is worded presumptively in favor of the absence of the parties, it allows for discretion on the part of the court. In re *IJW*, Sup. Ct. Op. No. 1439 (File No. 3264), 565 P.2d 842 (1977).

Statutory discretion of court circumscribed in situations covered by Civ. R. 32(a)(3)(B), relating to use of depositions at trial, etc. — See In re *IJW*, Sup. Ct. Op. No. 1439 (File No. 3264), 565 P.2d 842 (1977).

Effect of master's recommendations. — The superior court is free to follow the recommendations of the master and grant the petition for adoption or to reject it as it sees fit. *Hickey v. Bell*, Sup. Ct. Op. No. 209 (File No. 403), 391 P.2d 447 (1964)

This section does not require that the superior court judge grant the petition for adoption if the requirements of the section are found to have been satisfied by the master who conducted the hearing. *Hickey v. Bell*, Sup. Ct. Op. No. 209 (File No. 403), 391 P.2d 447 (1964).

Requirements of subsection (c) to be met. — Subsection (c) of this section

requires the superior court to determine that the required consents have been obtained or excused and that the adoption is in the best interests of the child. Both of the conditions must be met. In re *L.A.H.*, Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Consent of father not dispensed with on ground of child's best interest. — The supreme court rejected the contention that the required consent of the child's father may be dispensed with if it is in the best interest of the child to do so. In re *L.A.H.*, Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Separate determination as to status of consents prior to decree. — The adoption statutory scheme clearly contemplates a separate determination by the court as to the status of required or excused consents prior to the granting of the decree of adoption. In re *L.A.H.*, Sup. Ct. Op. No. 1868 (File No. 3853), 597 P.2d 513 (1979).

Parents entitled to preference over grandparents. — Between parents and grandparents adversely claiming custody of a child either parent is entitled to a preference over the grandparents unless it is clearly shown that the parent is unfit for the trust, or that the welfare of the child requires it to be in the custody of the

grandparents. *Hickey v. Bell*, Sup. Ct. Op. No. 209 (File No. 403), 391 P.2d 447 (1964).

Collateral references. — Proofs: adoption, 1 Am. Jur. POF, pp. 199-235.

Inclusion in decree of provision as to right of natural parent to visit child, or otherwise deserving rights of natural parent, 114 ALR 271.

Applicability of res judicata to decrees or judgment in adoption proceedings, 52 ALR2d 406.

Race as factor in adoption proceedings, 54 ALR2d 909.

Award of custody of child where contest is between child's mother and grandparent, 29 ALR3d 366.

Award of custody of child where contest is between child's grandparent and one other than child's parent, 30 ALR3d 290.

Religion as factor in adoption proceedings, 48 ALR3d 383.

Age of prospective adoptive parent as factor in adoption proceedings, 84 ALR3d 665

Grandparents' visitation rights, 90 ALR3d 222.

Admissibility of social worker's expert testimony on custody issue, 1 ALR4th 837.

Visitation rights of persons other than natural parents or grandparents, 1 ALR4th 1270.

Marital status of prospective adopting parents as factor in adoption proceedings, 2 ALR4th 555.

Sec. 25.23.130. Effect of adoption decree. (a) A final decree of adoption, whether issued by a court of this state or of any other state, has the following effect as to matters within the jurisdiction or before a court of this state:

(1) except with respect to a spouse of the petitioner and relatives of the spouse, to relieve the natural parents of the adopted person of all parental rights and responsibilities, and to terminate all legal relationships between the adopted person and the natural parents and other relatives of the adopted person, so that the adopted person thereafter is a stranger to the former relatives for all purposes including inheritance, unless the decree of adoption specifically provides for continuation of inheritance rights, and the interpretation or construction of documents, statutes, and instruments, whether executed before or after the adoption is decreed, which do not expressly include the person by name or by some designation not based on a parent and child or blood relationship; and

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

(b) Notwithstanding the provisions of (a) of this section, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent thereafter adopts the child, the child's right of inheritance from or through the deceased parent is unaffected by the adoption. (§ 1 ch 84 SLA 1974)

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Sec. 25.23.140. Appeal and validation of adoption decree. (a) An appeal from any final order or decree rendered under this chapter may be taken in the manner and time provided for appeal from a judgment in a civil action.

(b) Subject to the disposition of an appeal, upon the expiration of one year after an adoption decree is issued, the decree may not be questioned by any person including the petitioner, in any manner upon any ground, including fraud, misrepresentation, failure to give any required notice, or lack of jurisdiction of the parties or of the subject matter, unless, in the case of the adoption of a minor the petitioner has not taken custody of the minor, or, in the case of the adoption of an adult, the adult had no knowledge of the decree within the one-year period. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS or vacation of adoption decree by adopting
20.15.140. Renumbered in 1982. parent or natural parent consenting to
Collateral references. — Annulment adoption, 2 ALR2d 887.

Sec. 25.23.150. Confidential nature of hearings and records in adoption proceedings. (a) All hearings held in proceedings under this chapter shall be held in closed court without admittance of any person other than essential officers of the court, the parties, their witnesses, counsel, persons who have not previously consented to the adoption but are required to consent, and representatives of the agencies present to perform their official duties.

(b) All papers and records pertaining to the adoption whether part of the permanent record of the court or of a file in the department or in an agency are subject to inspection only upon consent of the court and all interested persons; or in exceptional cases, only upon an order of the court for good cause shown.

(c) Except as authorized in writing by the adopted child if 14 or more years of age, or by the adoptive parent, or upon order of the court for good cause shown in exceptional cases, no person is required to disclose the name or identity of either an adoptive parent or an adopted child. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS Restricting access to judicial records of
20.15.150. Renumbered in 1982. pending adoption proceedings, 83 ALR3d
Collateral references. — Restricting 324.
access to judicial records of concluded
adoption proceedings, 83 ALR3d 800.

Sec. 25.23.160. Recognition of foreign decree affecting adoption. A decree of court terminating the relationship of parent and child or establishing the relationship by adoption issued under due process of law by a court of any other jurisdiction within or outside of the United States shall be recognized in this state and the rights and obligations of the parties as to matters within the jurisdiction of this

state shall be determined as though the decree were issued by a court of this state. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS 20.15.160. Renumbered in 1982.

Sec. 25.23.170. Applications for birth certificates. Within 30 days after an adoption decree becomes final, the clerk of the court shall, if requested by the adoptive parents, prepare an application for a birth certificate in the name of the adopted person and forward the application

(1) for a person born in the United States, to the appropriate vital statistics office of the place, if known, where the adopted person was born and forward a copy of the decree to the department for statistical purposes; and

(2) for a person born outside the United States to the state registrar of vital statistics. (§ 1 ch 84 SLA 1974; am § 5 ch 76 SLA 1982)

Revisor's notes. — Formerly AS 20.15.170(a). Renumbered in 1982. As amended by § 5, ch. 76, SLA 1982, this section contained a subsection (b), which has been redesignated AS 25.23.175.

Effect of amendments. — The 1982

amendment added the paragraph (1) designation, added "for person born in the United States" to the beginning of that paragraph, added "and" to the end of that paragraph, and added paragraph (2).

Sec. 25.23.175. Findings concerning persons born outside the United States. In the case of the adoption of a person born outside the United States, if requested by the adoptive parents, the court shall make findings, based on evidence from the petitioner and other reliable state or federal sources, on the date and place of birth and parentage of the adopted person. These findings shall be certified by the court and included with the report of adoption filed with the state registrar of vital statistics in accordance with AS 18.50.210. (§ 5 ch 76 SLA 1982)

Revisor's notes. — Enacted as AS 20.15.170(b). Renumbered in 1982.

Sec. 25.23.180. Relinquishment and termination of parent and child relationships. (a) The rights of a parent with reference to a child, including parental right to control the child or to withhold consent to an adoption, may be relinquished and the relationship of parent and child terminated before or before an adoption proceeding as provided in this section.

(b) All rights of a parent with reference to a child, including the right to receive notice of a hearing on a petition for adoption, may be relinquished and the relationship of parent and child terminated by a writing, signed by the parent, regardless of the age of the parent, a copy of which shall be given to the parent.

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issued by a court

(1) in the presence of a representative of an agency taking custody of the child, whether the agency is within or outside of the state or in the presence and with the approval of a court within or outside of this state in which the minor was present or in which the parent resided at the time it was signed, which 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; or

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(2) in any other situation if the petitioner has had custody of the minor for two years, but only if notice of the adoption proceeding has been given to the parent and the court finds, after considering the circumstances of the relinquishment and the long continued custody by the petitioner, that the best interest of the child requires the granting of adoption.

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(c) The relationship of parent and child may be terminated by a court order issued in connection with an adoption proceeding under this chapter or a proceeding under AS 47.10:

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(d) For the purpose of proceeding under this chapter, a decree terminating all rights of a parent with reference to a child or the relationship of parent and child issued by a court of competent jurisdiction in this or any other state dispenses with the consent to adoption proceedings of a parent whose rights or parent and child relationship are terminated by the decree and with any required notice of an adoption proceeding other than as provided in this section.

(e) A petition for termination of the relationship of parent and child made in connection with an adoption proceeding may be made by

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(1) either parent if termination of the relationship is sought with respect to the other parent;
(2) the petitioner for adoption, the guardian of the person, the legal custodian of the child, or the individual standing in parental relationship to the child;
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(f) Before the petition is heard, notice of the hearing on the petition and opportunity to be heard shall be given the parents of the child, the guardian of the person of the child, the person having legal custody of the child, and, in the discretion of the court, a person appointed to represent any party.

(g) Notwithstanding the provisions of (b) of this section, a relinquishment of parental rights with respect to a child, executed under this section, may be withdrawn by the parent, and a decree of a court terminating the parent and child relationship under this section

may be vacated by the court upon motion of the parent, if the child is not on placement for adoption and the person having custody of the child consents in writing to the withdrawal or vacation of the decree. (§ 1 ch 84 SLA 1974)

Revisor's notes — Formerly AS 20.15.180. Renumbered in 1982

NOTES TO DECISIONS

Substantial compliance with consent requirements. — When it is clear that the statutory purpose has been fulfilled, substantial compliance with the requirements governing consent to adoption is sufficient. *S.O. v. W.S.*, Sup. Ct. Op. No. 2491 (File No. 5856), 643 P.2d 997 (1982).

Applicability of requirement to

include statement of right to withdraw. — The inclusion of a statement of right to withdraw requirement of paragraph (b)(1) is not applicable to a consent to adoption. *B.J.B.A. v. M.J.B.*, Sup. Ct. Op. No. 2220 (File No. 4733), 620 P.2d 652 (1980).

Collateral references. — Right of indigent parent to appointed counsel in pro-

ceeding for involuntary termination of parental rights, 30 ALR3d 1141.

Sec. 25.23.190. Adoption assistance. A hard-to-place child in the permanent custody of the department in a foster home for not less than one year may not be denied the opportunity for a permanent home if the achievement of this depends on continued subsidy by the state. (§ 1 ch 84 SLA 1974; am § 2 ch 36 SLA 1977)

Revisor's notes. — Formerly AS 20.15.190. Renumbered in 1982.

Legislative history reports. — For

report on ch. 36, SLA 1977 (SB 54), see 1977 Senate Journal, p. 56.

Sec. 25.23.200. Investigation. Persons who are caring for a hard-to-place child on a foster parent basis and who have applied to adopt the hard-to-place child and to receive payments for the care and support of the hard-to-place child shall be evaluated as to their suitability as adoptive parents by means of an adoptive home study. This home study shall be made by the commissioner's adoption staff or on the commissioner's behalf by an authorized agency which provides adoption services. (§ 1 ch 84 SLA 1974; am § 3 ch 36 SLA 1977)

Revisor's notes. — Formerly AS 20.15.200. Renumbered in 1982.

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NOTES TO DECISIONS

Applied in *Granato v. Occhipinti*, Sup.
Ct. Op. No. 1962 (File No. 3756), 602 P.2d
442 (1979).

Sec. 25.23.210. Amount and duration of subsidy payments. The monthly payment and the length of time for which a subsidy for a hard-to-place child is granted are left to the discretion of the commissioner and may vary from a small monthly sum to an amount not exceeding the existing rate for foster care until the child reaches the age of majority, if the need continues to exist. Subsidies shall be paid from the same public funds and in the same manner as foster care payments. (§ 1 ch 84 SLA 1974; am § 4 ch 36 SLA 1977)

Revisor's notes. — Formerly AS
20.15.210. Renumbered in 1982.
Cross references. — For age of major-
ity, see AS 25.20.010 — 25.20.020.

Legislative history reports. — For
report on ch. 36, SLA 1977 (SB 54), see
1977 Senate Journal, p. 56.

Sec. 25.23.220. Annual reevaluation. After an adoption with subsidy is final, the family is independent of the department except for an annual evaluation by the department of the need for continued subsidy and the amount of the subsidy. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS
20.15.220. Renumbered in 1982.

Sec. 25.23.230. Regulations. The department shall adopt regulations necessary to implement the provisions of AS 25.23.190 — 25.23.240. (§ 1 ch 84 SLA 1974)

Revisor's notes. — Formerly AS
20.15.230. Renumbered in 1982.

Sec. 25.23.240. Definitions. In this chapter, unless the context otherwise requires,

- (1) "adult" means an individual who has reached the age of majority;
- (2) "agency" means any person certified, licensed, or otherwise specially empowered by law or regulation to place minors for adoption;
- (3) "child" means a son or daughter, whether by birth or by adoption;
- (4) "commissioner" means the commissioner of health and social services;
- (5) "court" means the superior court of this state, and, when the context requires, the court of any other state empowered to grant petitions for adoption;
- (6) "department" means the Department of Health and Social Services;

(7) "hard-to-place child" means a minor who is not likely to be adopted by reason of physical or mental disability, emotional disturbance, recognized high risk of physical or mental disease, age, membership in a sibling group, racial or ethnic factors, or any combination of these conditions;

(8) "minor" means a person who has not reached the age of majority. (§ 1 ch 84 SLA 1974; am § 5 ch 36 SLA 1977)

Revisor's notes. — Formerly AS 20.15.240. Renumbered in 1982.

Cross references. — For age of majority, see AS 25.20.010 — 25.20.020.

NOTES TO DECISIONS

Applied in *Granato v Occhipinti*, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Chapter 24. Divorce and Dissolution of Marriage.

Article

- 1. Divorce and Annulment (§§ 25.24.010 — 25.24.180)
- 2. Dissolution of Marriage (§§ 25.24.200 — 25.24.260)
- 3. Miscellaneous Provisions (§§ 25.24.300 — 25.24.310)

Article 1. Divorce and Annulment.

Section

- 10. Right of action for divorce
- 20. Void marriages
- 30. Voidable marriages
- 40. Action to declare marriage valid
- 50. Grounds for divorce
- 60. Mediation
- 70. Confession of adultery
- 80. Residence requirements for action to declare marriage void
- 90. Use of spouse's residence

Section

- 100. Residency of military personnel
- 110. Separate domicile or residence
- 120. Defenses to adultery
- 130. Defenses to other divorce grounds
- 140. Orders during action
- 150. Judgments for custody
- 160. Judgment
- 170. Modification of judgment
- 180. Effect of divorce

Collateral references. — 4 Am. Jur. 2d, Annulment of Marriage, § 1 et seq. 24 Am. Jur. 2d, Divorce and Separation, § 1 et seq.

27A C.J.S., Divorce, § 1 et seq. 55 C.J.S., Marriage, §§ 48-69.

Effect as res judicata of denial of divorce in sister state or foreign country, 4 ALR2d 107.

Delay in bringing suit as affecting right to divorce, 4 ALR2d 1321.

Standing of strangers to divorce proceeding to attack validity of divorce decree, 12 ALR2d 717.

Power to grant annulment of marriage against nonresident on constructive service, 43 ALR2d 1086.

Right to attack validity of marriage after death of party thereto, 47 ALR2d 1393.

Limitation of actions for annulment of marriage, 52 ALR2d 1163.

Injunction against suit in another state or county for divorce or separation, 54 ALR2d 1240.

Necessity and sufficiency of corroboration of plaintiff's testimony concerning ground for annulment of marriage, 71 ALR2d 620.

the bureau may be opened by the State Registrar for inspection by an agent of the state or federal government acting in the performance of official duties. A report filed with the bureau for the adoption of a person born outside of Alaska shall be forwarded by the bureau to the appropriate registration authority in the state of birth. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.210
AS 20.10.130

7 AAC 05.680. EVIDENCE OF LEGITIMATION. All evidence or proof that any person born out of wedlock in Alaska has subsequently been legitimated in accordance with the statutes shall be filed with the bureau as soon as possible after such legitimation. Such evidence or proof, as well as any court adjudications, shall be submitted on the forms prescribed and furnished by the bureau, or in such manner as may be determined by the State Registrar in cooperation with the Alaska Court System. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 25.20.050

7 AAC 05.690. REGISTRATION. The clerk of court shall be responsible for forwarding to the bureau a certified copy of any such adjudication, along with any related information requested by the State Registrar; and the parents, either or both, shall be responsible for furnishing the required proof in other cases; both in accordance with the instructions of the State Registrar in cooperation with the Alaska Court System. Such evidence, proof, or adjudication shall be noted on, and filed with, the corresponding original certificate of birth; however, copies of such proof shall not be forwarded to the custodian of the corresponding local record, nor shall it be made available to the general public. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 25.20.050

ARTICLE 3. SPECIAL PROCEDURES

Section

- 700. New certificate of birth
- 710. Request
- 720. Form of certificate
- 730. Filing of certificate
- 740. Procedure on adoption

- 750. New original certificate
- 760. Sealing of copies
- 770. Permitted disclosure
- 780. Delayed registration
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- 800. Forms and proof
- 805. Acceptability of belated certificate
- 810. Delayed certificate
- 815. Form and procedure
- 820. Acceptable evidence
- 825. Requirement of independence
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- 845. Furnishing of copy
- 850. Effect of court order
- 855. Form and hearing
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- 875. Corrections and amendments
- 880. Definitions
- 885. Method of correction
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- 895. Style of correction
- 900. Change of name
- 905. Court order controls
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- 915. Burden of proof
- 920. Confidentiality of records
- 925. Limited disclosure
- 930. Government agents
- 935. Procedure
- 940. Short-form certificate
- 945. Limitation on copying
- 950. Research information
- 955. Duty of employees
- 960. Certified copies
- 965. Evidentiary value
- 970. Limitation on copying
- 975. Fees
- 980. Record-keeping duty
- 985. Reports and information
- 990. Preservation of evidence

7 AAC 05.700. NEW CERTIFICATE OF BIRTH. The bureau shall establish a new certificate of birth, upon proper request that such certificate be made, for persons born in

Alaska, upon adoption or legitimation and the submission of the required documents and other necessary information as required by the State Registrar; provided that such new certificate of birth shall not be established in cases of adoption if such negative request be received from the court decreeing the adoption, the person himself if of legal age, or from the adoptive parents. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.710. REQUEST. Proper request for a new certificate shall be considered a written and signed request: in the case of adoption, from the adoptive parents, or from the adopted person if of legal age; and in the case of legitimation, from one of the parents, or from the legitimated person if of legal age. The form and type of request acceptable shall be determined by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.720. FORM OF CERTIFICATE. The new birth certificate shall be prepared upon the same type of form, and look as much like a regular birth certificate as possible. Nothing on it shall state or refer to the fact that it is a new certificate. The actual date and place of birth shall be shown, and any question of legitimacy shall be answered in the affirmative. The name on the birth certificate shall be as ordered in the decree, if so specified; otherwise as requested by the parents. The name of the attendant or other person signing the original certificate shall be copied on the new certificate. The personal particulars shall reflect as much as possible the new situation of adoption or legitimation, and these and any other items shall be completed as specified by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.730. FILING OF CERTIFICATE. When the new certificate of birth has been established, it shall be substituted in place of the original certificate. All references to the original certificate shall be removed or deleted from the regular indexes, and from any other source to which the public might have access. The original

certificate, any attachments thereto, and all correspondence, decrees, adjudications, or other reference to the adoption or legitimation shall be sealed away from any inspection except upon order of a superior court; provided that the State Registrar may open all or part of such sealed file for inspection by the person whose record it is, if of legal age; by an agent of the state or federal government acting in the performance of official duties; or for any necessary administrative purpose within the bureau. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.740. PROCEDURE ON ADOPTION. Upon receipt of a report that an adoption has been vacated, the original certificate of birth shall be restored to its place in the files; and the new certificate together with all evidence and related material shall be sealed away from inspection except upon order of a superior court, or for administrative inspection by the State Registrar. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.750. NEW ORIGINAL CERTIFICATE. If no certificate of birth is on file for the person for whom a new certificate is to be established, an original certificate must be prepared and registered in accordance with the provision of the Vital Statistics Act, these regulations, and the instructions of the State Registrar before a new certificate of birth may be established. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.760. SEALING OF COPIES. When a new certificate of birth is established in the bureau, the State Registrar shall direct that any local copies of the original record in the custody of local recorders be sealed away from inspection except upon order of a superior court or demand of the State Registrar. Upon the vacation of any adoption, the State Registrar shall direct the proper disposition of any pertinent local records. The State Registrar may supply a copy of the new certificate to the same local recorder to substitute in place of the

original copy. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.770. PERMITTED DISCLOSURE. After the establishment of a new certificate of birth in accordance with these provisions, such new certificate shall be the official certificate of birth of the person concerned. A verification or certified copy of part or all of such new certificate may be made by the bureau and by any local custodian of a copy of such new certificate, subject to the provisions on disclosure of records; and when properly issued and certified, shall be prima facie evidence of the date and place of birth of the person therein named. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.220
AS 25.20.050

7 AAC 05.780. DELAYED REGISTRATION. When the birth of a person born in Alaska, heretofore or hereafter, has not been registered, a certificate may be filed in accordance with the Vital Statistics Act, these regulations, and instructions issued thereunder. Its acceptance for registration shall be determined by the evidentiary and other requirements established hereunder. The establishment of such procedure, or the acceptance for registration of a certificate thereunder, does not relieve anyone from any responsibility he had for filing such certificate within a specified time. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.180

7 AAC 05.790. DEFINITIONS. As used herein

(1) "belated" birth certificate means one filed after the time prescribed for filing but within one year from the date of birth;

(2) "delayed" birth certificate means one filed one year or more after the date of birth; and

(3) "application for registration" means the filing of a satisfactory certificate form, signed, acknowledged, and completed to the extent required of the applicant, in accordance with the instructions of the State Registrar, with the

proper local registrar or with the bureau as may be required. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.180

7 AAC 05.800. FORMS AND PROOF. The belated or delayed certificate forms shall be those prescribed and furnished by the bureau, and the evidentiary or other information required shall be submitted on such forms or in such manner as shall be determined by the State Registrar. Original documents may be submitted to the bureau at the owner's risk; they may be copied, abstracted, or otherwise included in the substantiating evidence, but shall be returned to the owner if so requested. The required proof or evidence needed to substantiate a delayed certificate shall be the responsibility of the person concerned, and the burden of proof shall rest with such person. Fees for registering a delayed certificate and any charges for obtaining substantiating evidence shall be as prescribed by the State Registrar, and shall be paid to the bureau by the applicant before such certificate may be registered. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.50.180

7 AAC 05.805. ACCEPTABILITY OF BELATED CERTIFICATE. A belated birth certificate shall be the regular certificate of live birth form, and shall be filed with the local registrar of the registration district within which the birth occurred. To be acceptable the form must be completed fully and accurately, and signed by the physician or other person who attended the birth; or in the absence or unavailability of such person, by one of the parents; or otherwise in accordance with the instructions of the State Registrar. The State Registrar may require additional evidence of the facts of birth before accepting the registration in cases where he deems this necessary. Such belated certificate shall be recorded and transmitted in the same manner as regular certificates of birth. No fee shall be charged for the registration of belated birth certificates. (In effect before 7/28/59; am 7/25/60, Reg. 2)

Authority: AS 18.15.180

7 AAC 05.810. DELAYED CERTIFICATE. A delayed birth certificate for a person less than 12 years of age at the time of application for registration, as defined herein, may be filed

State Legislatures

National Conference of State Legislatures

May-June 1984

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Adoption laws

Sentencing guidelines

Adoption: new ways to build families



Photo by Lauren Brill

Dramatic changes in state adoption laws have made commonplace combinations of parents and children that were virtually impossible 10 years ago.

Judy Heffner

When a boy of 14 is placed in the home of a 61-year-old bachelor — as happened recently in Vermont — it is fair to assume that something new and dramatic is happening to adoption.

In all likelihood, that adoption would not have taken place 10 years ago. It was made possible by the new climate that surrounds adoption, a climate reflected in these trends:

- A growing emphasis on adopting children with "special needs," including the mentally and physically handicapped;
- A greater willingness to place children with single parents and, in some cases, with couples living outside of marriage;
- The removal of racial and religious barriers to adoption; and
- The increasing number of families who are adopting their foster children, often with the aid of state subsidy payments.

Today adoption is a new kind of "family building," in the words of Ann Bolstead, a Montana social

worker. There is a scarcity of healthy infants, caused in part by changing attitudes toward birth control and the tendency of unwed mothers to keep their babies. There are adults who live in non-traditional family settings but still want to bring children into their lives. The result is new combinations of parents and children — and a wider sense of possibilities in adoption law and practice.

"We have seen a dramatic change in the kinds of adoptions that are taking place," said Nancy McConnell of the Child Welfare League of America, a service organization that helps set standards in adoption and foster care for nearly 400 member agencies. "Children under five are now considered easy to place," she said. The corollary is also true: Children once thought "unadoptable" are now possible to place. For states committed to adoption laws and policies that serve the "best interest of the child," these trends provide new opportunities — and a complex set of new problems.

The modern adoption process is a relatively recent concept in this country. Even adoption agencies are a fairly new phenomenon. The first state adoption laws took the form of "private" laws, which permitted a specific parent to adopt an individual child. In 1951, Massachusetts enacted the first law that made the adoption process open to everyone. The early laws, however, were "a far cry from the modern notion that the purpose of adoption is to serve the best interests of the child," write Susan and Elton Klibanoff in their book, *Let's Talk About Adoption*. "A commonly held view was that adopted children were 'the waifs of society, foundlings or children whose parents are depraved and worthless,'" they found.

By the time all 50 states had enacted adoption laws in 1931, the focus had shifted from a legal relationship based on rights of "ownership" to an emphasis on protecting

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the child. New laws established certain standards and policies, such as the investigation of prospective adoptive parents and regulations for terminating prior parental custody.

Today, adoption severs biological ties between the child and his or her birth parents. It establishes a completely new legal relationship between the adoptive parents and the adoptee. A new birth certificate is issued, using the adoptee's actual date and place of birth but substituting his or her adoptive name and the names of the adoptive parents in place of the birth parents. Oregon law, which is typical, states that once the adoption has been completed, the natural parents' legal relationship with the adoptee shall be the same as if he or she had not been born to them.

Two types of domestic adoption are possible between non-relatives in most states. In the first, *agency adoption*, a public or private child-placing agency licensed by the state acts as an intermediary between the birth mother and the adoptive parents.

The second type, an *independent* or *private adoption*, may be arranged directly by the birth mother or by an intermediary, such as a doctor, lawyer, or clergyman, if state law permits.

Price of a newborn

Eleven states prohibit independent adoption between non-relatives. The other 39 permit private adoptions under differing conditions and with varying restrictions.

A number of states that permit private adoptions have revised their laws in recent years to prevent abuses such as baby selling, which can drive the "price" of a healthy newborn as high as \$50,000. But many laws regarding the exchange of money are ambiguous. They vary from state to state. Some states have tried to clarify their laws to make them more difficult to circumvent.

One of the most ambitious attempts to cover the problems associated with independent adoptions occurred



Photo by Lauren Brill

in Iowa, where the adoption law underwent a comprehensive rewrite in 1975. It included provisions that (1) no placement can be made until the prospective adoptive parents have been investigated by the Department of Social Services or by an investigator selected by the department; (2) fees in conjunction with any placement must be usual, necessary, and commensurate with services rendered; (3) prospective parents must file full financial disclosure with the adoption petition, with criminal penalties imposed for violations; (4) it is illegal for the natural parent to receive a fee for having a baby; and (5) there must be close supervision at all stages of the adoption procedure.

At least three states that used to allow independent adoptions — Colorado, Massachusetts, and New Mexico — have outlawed them. One state that now prohibits independent adoptions, North Dakota, is studying the feasibility of legalizing it.

The South Carolina Children's Bureau, a public agency, has just begun charging a fee for placing healthy infants and pre-schoolers, in order to "compete" with independent adoptions. According to State Bureau Director Frank Lewis, South Carolina lost 35 prospective infant placements in 1982 because it could

not pay the young mothers' medical bills.

Whatever the type of adoption, prospective parents must meet minimum state requirements. Most states require that adoptive parents live in the state where they plan to adopt for a specific period of time, usually six months to one year. Although other states do not demand that parents be residents before petitioning, they do require that parents be present while the home study or investigation is in progress and until the adoption is completed — usually six months or one year.

In all states, adoption is for adults only. Many states also require that adoptive parents be at least 10 years older than the adoptee. Some, like Georgia, specify a minimum age for single adoptive parents; Georgia sets it at 25.

Single-parent adoption has increased markedly and is now permitted in all 50 states. For some children, a single parent may even be preferred: "An older child who has been abused is sometimes not able to relate to two adults in a family and needs a period of healing," said Linda Dunn of the North American Council on Adoptable Children. Because of the shortage of healthy infants and the number of qualified couples waiting to adopt

(Continued on p. 19)

(Continued from p. 14)

them, more and more single parents are adopting "special needs" children. Vermont even allows adoptive placements with unmarried couples who have a proven, stable relationship (a practice that is not widespread). One of the couple simply adopts as a single parent.

Parental rights cut

Race and religion are also assuming less importance in adoptions. This process was hastened by a series of U.S. Supreme Court decisions that removed state-imposed barriers to interracial adoption. Although a handful of state laws may still mention race and religion as important factors to be considered in granting adoption, most states are moving toward discounting such considerations as the sole basis for granting or denying an adoption in favor of the child's welfare.

One important requirement that is universal in theory but highly controversial in practice is termination of parental rights, particularly those of the father. No adoption can be granted without the consent of one or both parents. And if the child is 12 or older, he or she must also consent to the adoption.

In granting an adoption, most states require court termination of parental rights, including those of the putative father. Once consent is given, it usually cannot be withdrawn without court approval unless the biological parents can prove it was obtained by fraud or coercion.

If a parent merely changes his or her mind, the case's outcome will depend upon state law. A majority of states give the court discretion in deciding whether parental consent may be revoked; some give the biological parent the absolute right to revoke consent; and a few make the consent irrevocable. The overriding factor in these decisions is what the judge deems to be the child's best interests. This was not always the case. Some of the laws on parental consent have changed in recent years because

of court decisions.

Until 1972, most adoption agencies were required to obtain a written release only from the child's biological mother. Then in 1972, the U.S. Supreme Court ruled in *Stanley vs. Illinois* that the unwed father's consent must be obtained before his biological child is placed in a permanent home — or, at least that he must be fully notified of a hearing on the termination of his rights.

As a result, states have passed laws to protect the father's rights. In some states, the courts and adoption agencies require that both parents agree to the release of their child. Others require only that the agency make a reasonable effort to find the illegitimate father, if known, and notify him that the biological mother is

releasing the child for adoption. If he does not respond after a specified time period (usually 30 to 60 days), the child is automatically released for adoption.

The courts, however, have yet to agree on precisely what voice unwed fathers have in releasing children for adoption. In 1978, the U.S. Supreme Court upheld a Georgia law that said the father's consent is not a requirement for adoption. In a more recent case decided in June 1983, the Court held that New York state did not violate the constitutional rights of an unwed father by not informing him of the pending adoption of his illegitimate child.

The Court has also agreed to review a case in which a father is challenging a Texas law that prevents him

Baby-selling ban sought

Among the 39 states that allow private adoptions, South Carolina is known as an easy place to find a child to adopt. Some newspapers even accept classified ads from people seeking children to adopt.

The state requires approval of adoptions at a family court hearing but does not require that any state agency be involved. The *New York Times* reports that in 1982, the last year for which state figures are available, 1,826 children were adopted in South Carolina, 450 of them by non-residents. Public and private adoption agencies placed only 390 of those children.

A bill introduced by South Carolina state Representative David H. Wilkins treats as a felony the request or acceptance of "any fee, compensation or any other thing of value as consideration for relinquishing the custody of a child for adoption." Medical expenses or fees for service, however, could be reimbursed.

Violation would incur a maximum sentence of 10 years in prison and \$10,000 in fines.

Wilkins said, "There was an instance about two months ago where a young mother sold or gave her 23-month-old daughter to another couple for \$3,500. She then changed her mind and attempted to get her child back. When the couple refused, she went to the chief of police [who] went to the county prosecutor, and he couldn't find any law he could prosecute under. The attorney general determined there was no such law; and for that reason we introduced a bill to make it a felony for anyone to be involved in selling children."

Toward the end of the South Carolina session, the bill was still in the House Judiciary Committee. However, Wilkins said, "I see no opposition to it, and if it doesn't get through both the House and Senate this year, we'll certainly get it through next year."

State Adoption Law Provisions



Photo by Lauren Bnll

	Independent Placement	Single Parent Adoption Residency Requirement for Adopting Parents	Accepts Only Court Termination of Parental Rights	Exclusively Court Term. Assistance Program	Identifying Info. Available by Court Order Only	Mutual Consent Subsidy	Search and Consent Registry	Partial or Complete Access to Records	Procedures
ALABAMA	1	1	.	.	.	.	.	2	
ALASKA	.	.	.	.	.	4	.	.	3
ARIZONA	.	.	.	.	.	5	.	.	
ARKANSAS	.	.	.	.	.	.	.	.
CALIFORNIA	6	.	.	.	.	.	.	.	7
COLORADO	8	.	.	.	.	.	.	.
CONNECTICUT	.	.	.	.	.	.	.	.
DELAWARE	.	.	.	.	.	.	.	.
FLORIDA	.	.	.	.	.	.	.	.
GEORGIA	.	.	.	.	.	.	.	.
HAWAII	.	.	.	.	.	.	.	.	7
IDAHO	.	.	.	.	.	.	.	.
ILLINOIS	.	.	.	.	.	.	.	.
INDIANA	.	.	.	.	.	.	.	.
IOWA	.	.	.	.	.	.	.	.
KANSAS	.	.	.	.	.	.	.	.	3
KENTUCKY	.	.	.	.	.	.	.	9	.
LOUISIANA	.	.	.	.	.	.	.	.
MAINE	.	.	.	.	.	.	.	.
MARYLAND	1	1	.	.	.	.	.	.
MASSACHUSETTS	6	.	.	.	.	.	.	.
MICHIGAN	6	.	.	.	.	.	.	.	7
MINNESOTA	6	.	.	.	.	.	.	.
MISSISSIPPI	.	.	.	.	.	.	.	.
MISSOURI	1	.	.	.	.	.	.	.
MONTANA	.	.	.	.	.	.	.	.
NEBRASKA	1	.	.	.	.	.	.	.	7
NEVADA	1	.	.	.	.	.	.	.
NEW HAMPSHIRE	.	.	.	.	.	.	.	.
NEW JERSEY	.	.	.	.	.	.	.	10	
NEW MEXICO	6	.	.	.	.	.	.	.
NEW YORK	.	.	.	.	.	.	.	.
NORTH CAROLINA	.	.	.	.	.	.	.	.
NORTH DAKOTA	.	.	.	.	.	.	.	.	7
OHIO	.	.	.	.	.	.	.	.
OKLAHOMA	.	.	.	.	.	.	.	10	11
OREGON	1	.	.	.	.	.	.	.
PENNSYLVANIA	.	.	.	.	.	.	.	.	3
RHODE ISLAND	6	.	.	.	.	.	.	.
SOUTH CAROLINA	.	.	.	.	12	.	.	.	
SOUTH DAKOTA	1	.	.	.	.	.	.	.
TENNESSEE	1	1	.	.	.	.	.	9	
TEXAS	1	.	.	.	.	.	.	.
UTAH	.	.	.	.	.	.	.	.
VERMONT	.	.	.	.	.	.	.	.
VIRGINIA	8	6	.	.	.	.	.	.
WASHINGTON	.	.	.	.	.	.	.	.
WEST VIRGINIA	.	.	.	.	.	.	.	.
WISCONSIN	6	.	.	.	.	.	.	.
WYOMING	.	.	.	.	.	.	.	.
TOTAL	46	39	29	50	26	47	30	15	14 10

Notes:

1. By biological parents only
2. With bio parent consent only
3. Original birth certificate only
4. Only available to state wards
5. Flexible subsidy
6. By bio parents w/relatives only
7. Only by consent of adoptee, birth parents, and/or adoptive parents
8. By bio parents only w/persons known to them
9. For pre-adoptive siblings only
10. For State Dept. placements only
11. Adoptive family has identifying information
12. In some cases

Source: Author survey and National Committee for Adoption

from stopping the adoptive placement of his illegitimate daughter. Texas law requires only that the child's mother consent to an adoption. This case is expected to be decided later this year.

The consequences of opposing state laws and attitudes can be extreme, as is dramatically illustrated in the "Baby Lenore" case.

Baby Lenore was born in a New York hospital to a 33-year-old unwed mother who consented to her adoption two weeks after the child's birth. A prestigious, private New York agency placed the child with prospective new parents, the DeMartinos.

Shortly after the placement, the birth mother changed her mind. The agency refused to return the child and never notified the DeMartinos of the mother's change of heart. After a long series of legal battles, the case reached the U.S. Supreme Court. It refused to overturn a decision of New York's highest court ordering the DeMartinos to return the child to its biological mother.

By now Baby Lenore had lived with the DeMartinos for 18 months. The family fled to Florida to escape the judgment of the New York court. Eventually they were allowed under Florida law to adopt the child and live there.

New York has since enacted a law stating that a biological mother's release for adoption of her child is irrevocable after 30 days. Other states also have reviewed their surrender provisions as a result of this case. Massachusetts, for example, now requires a uniform surrender document for all adoptions.

Courts intervene

Not all children who are adopted have been voluntarily relinquished by their parents. In cases where they have been abused, neglected, or abandoned, a court will sever the relationship without parental consent if it finds such action to be in the child's best interest. Often the children already have been removed

Federal programs encourage adoption

Although adoption is primarily a state responsibility, Congress has enacted several programs relating to adoption. Federal programs include:

The *Adoption Assistance Program*, established by the Adoption Assistance and Child Welfare Act of 1980, provides federal matching funds for payments to parents who adopt an AFDC or SSI-eligible child with special needs.

The *Adoption Opportunities Program*, established by Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, facilitates and encourages the adoption of children with special needs. Although the legislation did not establish an ongoing program, it did set five goals: (1) development of model state adoption legislation and procedures relating to adoptive placement of special needs children; (2) a study of independent (private) adoptions; (3) development and operation of a national adoption and foster care data-gathering system; (4) development and operation of a national adoption information exchange system, to be coordinated with similar state and regional systems; and (5) provision of training, technical assistance, and educational materials concerning the adoption of special needs children to states and public and private non-profit agencies.

An amendment to the *Internal Revenue Code* allows a tax deduction for special needs children. This amendment was written into the Economic Recovery and Tax Act of 1981. Under new code section 222, taxpayers of any income who adopt special needs children (as defined by state law) and who receive federal adoption assistance may deduct up to \$1,500 of adoption expenses.

Federal standards and funding for American Indian adoption and foster care are governed by the *Indian Child Welfare Act of 1978*. This law: (1) established minimum federal standards for removing Indian children from their families and placing these children in foster or adoptive homes that reflect the unique values of Indian culture; (2) returned jurisdiction over most Indian child welfare matters to the tribes; and (3) authorized funds for Indian groups to develop and operate child and family service programs, including systems for licensing and regulating Indian foster and adoptive homes.

The *Immigration and Nationality Act* governs the admission into the United States of foreign-born children for adoption purposes. Parents adopting foreign-born children also must comply with the adoption laws of the child's country and of their home state.

The *Child Welfare Services Program* provides matching funds to states for services that include adoption, foster care, and limited expenditures for foster care maintenance and state adoption subsidies.

The *Adolescent Family Life Program* funds local demonstration programs that provide services to teen-age parents and pregnant adolescents, including adoption counseling and referral services.

Social service block grants provide funds to states for a variety of social services, including adoption and foster care.

—Judy Heffner

from their homes or have been voluntarily placed in foster care by their parents. Although most states have laws permitting involuntary termination of parental rights in extreme circumstances, the courts are often reluctant to interfere with parental control. And according to Elizabeth Cole of the Child Welfare League of America, a child who has been in foster care for more than 19 months stands little chance of returning to his biological family.

As a result, nearly half a million of these children languish in foster care, sometimes until adolescence, although it is estimated that at least 120,000 could be adopted. "I've seen a lot of children who would love to be adopted and can't be," said South Carolina state Representative Parker Evatt, who is vice-chairman of the General Assembly's joint committee on children.

As the operator of a group home for juveniles, Evatt considers termination of parental rights to be "one of the major hurdles" facing the 3,000 children in foster care in South Carolina. "I've seen kids who've been in foster care a long time after being abused, and then they wind up



Photo by Lauren Brill

Consider adoption



You
can
make
the
difference

here, because the problem wasn't dealt with at the beginning," Evatt said.

Another problem he sees with the youngsters who pass through his home is the lack of permanency planning. Evatt believes that once a child in trouble is referred to the State Department of Youth Services, a plan should be established for him, perhaps leading eventually to adoption.

Missouri state Representative Kaye Steinmetz concurs. "Even though we have permanency planning, it is not always used properly," she said. Under Missouri law, all children placed in foster care must have a permanency plan. According to Steinmetz, however, this mandate does not always translate into action. "If there is a plan, it doesn't always include an adoption component, even if it is appropriate," she said. Steinmetz has asked the Missouri House speaker to establish a select interim committee that would hold statewide hearings on adoption, open records, and termination of parental rights.

Fortunately for the several hundred thousand children in foster care nationwide, the weight of state laws, court decisions, and social work practice has swung away from the adult's right to "ownership" to the child's right to continuous, stable, and permanent care.

Some states, like Maryland, have enacted laws terminating parental rights after a child has been in foster care for two years and a parent has made no effort to reunite. New York mandates a review after 24 months of foster care. Other states, like Illinois, are shifting the burden of proving fitness from the court to the biological parent. Still others — realizing that the final adoption of a foster child may take years because of custody questions and court backlog — have initiated foster/adopt or "legal risk" adoption programs. In these, the child is placed in a home on the assumption that he or she eventually will become free for adoption by the foster parents. A growing number of states, including Illinois, Maryland, Michigan, Montana, and Washington, are initiating

such programs.

Where children and their foster parents have established a relationship that could lead to permanent placement and adoption, many states are giving the foster parents preference once the child becomes legally free for adoption. This practice may contribute to more adoptions. Jacob Sprouse, executive director of the National Foster Parent Association, said that in states focusing on termination of parental rights after 24 months, there is a significant increase in the number of adoptions — and more than 70 percent of these are by foster parents.

Many children were once considered "unadoptable," but the number who fall into that category has diminished sharply in recent years. One reason is the growth of

state subsidy programs to encourage the adoption of so-called "special needs" children. After New York enacted the first such law in 1968, 44 states enacted adoption subsidy programs between 1969 and 1977. New York took the lead again in 1974 when its Legislature provided for subsidy payments to continue if a child is moved to another state or is adopted by residents of another state or Puerto Rico.

In most cases, subsidy payments are tied to the child's needs, rather than to the financial requirements of the adoptive parents. Most states fund medical care, monthly maintenance, "special services" (a catch-all category that might include extraordinary medical care, psychotherapy, or transportation to a special educational facility), and a one-time legal payment to complete

the adoption. Most subsidies continue until a child's 18th, and in some states, 21st birthday. Arranged prior to adoption, subsidies generally are linked to the state's foster care payment scale.

The existence of subsidy programs has helped increase the number of foster parent adoptions. That is good for the children, who gain a stable and continuing relationship; good for the parents, many of whom could not have afforded to adopt without the subsidies; and good for state budgets, because foster parent adoptions save money. Social workers in many states including Oregon and New York have documented the fact that subsidized adoption is far less expensive than long-term foster or institutional care, not to mention the human costs saved.

The Interstate Compact on the Placement of Children is another new development that has encouraged adoption of hard-to-place children and protected those placed across state lines. The compact is "the only tool states have to ensure that children placed across state lines are protected," according to Betsey Rosenberg of the American Public Welfare Association. To date, all but four states — Hawaii, Michigan, Nevada, and New Jersey — and the District of Columbia have signed the compact.

Under the compact's rules, a child cannot be brought into a receiving state until the sending state gives written notice of who the natural and prospective adoptive parents are, and the reason for interstate adoption. The receiving state's compact administrator must approve the child's transfer, but may do so only after the prospective parents have undergone a homestudy to determine their suitability as parents. In this way, children placed in another state are assured the same protection and services that would have been provided in their home state. The compact also defines the types of placements subject to the law and the procedures to be followed for interstate placements.

Future adoption reforms

Legislators, child welfare professionals, and the members of the "adoption triangle" — birth parents, adoptive parents, and adoptees — will continue to disagree on the nature and extent of needed reforms in adoption laws. Broad agreement exists, however, on a number of important issues:

- A procedure is needed to ensure that natural fathers assume responsibility for declaring paternity and that they take some responsibility before the child's birth. Consistency in notification and enforcement of relinquishment procedures for unwed fathers is also necessary.
- Better regulation of independent adoptions is essential, and should cover adequate counseling for the birth and adoptive parents; restrictions on the amount of money charged for legal and medical fees; who, if anyone may act as an intermediary; and reasonable availability of adequate medical information on the child, along with the opportunity to update that information periodically.
- Adoption subsidies should be strengthened and allowed to "travel" with the child, as is the case under New York law.
- Lawmakers responsible for making policy need to establish an ongoing dialogue with the judges responsible for carrying out that policy.
- Finally, states need to end "foster care drift." They need to get more children out of foster care and into permanent adoptive homes whenever possible.

On one point — the ultimate goal of the system — there is unanimous agreement. Claire Berman of the Child Welfare League expresses that goal simply: "to see no child judged unadoptable." —*Judy Heffner*

Opening adoption records

By CECILIA KLEINKAUF

Throughout the winter and spring of 1980, the subject of "opening" adoption records in Alaska received a good deal of attention.

A public forum, sponsored by the League of Women Voters, the National Association of Social Workers and the Social Work Department at the University of Alaska generated much discussion and a series of resolutions supporting opening records for release of non-identifying information (i.e. — medical, racial data) and opening records for release of identifying information with the consent of the individual whose name is released. Legislation was also introduced in the 11th Alaska Legislature to amend the Alaska statutes to provide for open records but did not pass.

In order to determine the opinions of the general public regarding adoption issues, the Social Work Department at the University of Alaska agreed to undertake a research survey of public opinion and make the results available to the legislature and the public at large.

Both KIMO-TV, Channel 13, and the Anchorage Daily News provided assistance by actually publicizing the short questionnaire, thus assuring participation by the general public.

The survey asked the following questions:

1) Whether respondents believed that non-identifying information should be available to adult adoptees without a court order.

2) Whether respondents believed that identifying information (names) should be accessible to adult adoptees, adoptive and biological parents —

a) Only with written consent of the person to be adopted;

b) Only with a court order and the written consent of the person to be adopted;

c) Only with a court order;

d) Not at all;

3) Whether adoptions should be done by a licensed adoption agency or the state — except for relative or step-parent adoptions.

One hundred forty-two (142) individuals responded to the brief questionnaire. Of this number — 19 were adopted persons, 37 were adoptive parents, 22 were biological parents of a child released for adoption, 18 were professional and 46 were classified "other." Composite breakdowns of their responses are as follows:

1) Those believing that non-identifying information should be available to adult adoptees without a court order —

Yes.....89 percent

No.....6 percent

Don't Know.....4 percent

2) Those believing that identifying information (names) should be accessible to adult adoptees, adoptive and biological parents —

Written consent.....77 percent

Court order & written consent.....15 percent

Only with court order.....2 percent

Not at all.....4 percent

Don't know.....1 percent

3) Those believing that adoptions should be done by a licensed adoption agency or the state — (except for relative or stepparent adoptions)

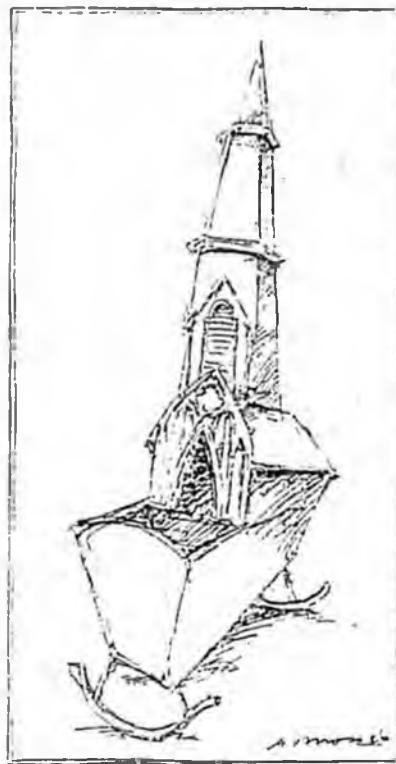
Yes.....65 percent

No.....17 percent

Don't Know.....18 percent

Contrary to what might be expected, when the responses are broken down by adoptees, adoptive parents and biological parents, the support for open records remains strong within each discrete group.

Of those respondents who were ADOPTIVE PARENTS, 85 percent believed that access to identifying information should be granted with the consent of the person to be identified. Ninety-five percent believed adult adoptees should have access to non-identifying information without a court order. Fifty-one percent of



the adoptive parents believed adoptions should be done by a licensed agency or the state and 35 percent disagreed. Fourteen percent weren't sure.

Of those respondents who were the BIOLOGICAL PARENT of a child released for adoption, 82 percent believed that access to identifying information should be granted with the written consent of the person to be identified. Ninety-one percent believed adult adoptees should have access to non-identifying information without a court order. Forty-five percent of the biological parents believed adoptions should be done by a licensed agency or the state. Forty-one percent weren't sure and 14 percent disagreed.

Of the respondents who were ADOPTEEES, 81 percent believed that access to identifying information should be provided with the written consent of the person to be identified. Ninety-five percent believed that access to non-identifying information should be possible without a court order, and 24 percent believed adoptions should be done by a licensed agency or the state. Eleven percent disagreed and five percent weren't sure.

Of the remaining respondents, 80 percent believed that written consent should be required for the release of identifying information, 87 percent believed that access to non-identifying information should be possible without court order and 74 percent believed a licensed agency or the state should do the adoptions.

Survey results such as these give clear indicators of changing social attitudes about adoption and about "secret" adoptive records.

It is obvious that the majority of respondents in this survey believe that Alaska should "open" adoptive records. It remains to be seen whether the 12th Alaska Legislature will agree.

Cecilia "Pudge" Kleinkauf is a faculty member of the University of Alaska, Anchorage with the Department of Social Work. She was recently a candidate for the state Legislature.

STATE OF ALASKA
THE LEGISLATURE

POUCHY STA CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 2, 1985

SUBJECT: Comparison of SB 187 and HB 2
TO: Senator Pat Rodey
FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for an analysis of whether SB 187 contains all the substantive provisions of HB 2.

HB 2

Sec. 18.50.500 language is incorporated within SB 187 sec. 18.50.500 and sec. 18.50.510.

Sec. 18.50.510(a) language is incorporated within SB 187 sec. 18.50.520 and sec. 25.23.185.

Sec. 18.50.510(b) language is not directly incorporated into SB 187. The record maintenance requirement of HB 2 may be unnecessary in SB 187 as the latter requires that agencies submit critical information to the state registrar through the court at the time of an adoption.

Sec. 18.50.520 definitions are all contained within SB 187 sec. 18.50.530 except the definition of "medical history." SB 187 uses the term "health history" and leaves it undefined as a phrase of common understanding.

Section 2 language is incorporated within SB 187 section 4.

Section 3 language is incorporated within SB 187 section 7.

Section 4 language is identical to that within SB 187 section 3.

With the exception of the language referred to from sec. 18.50.510(b), SB 187 incorporates all of HB 2.

GWE:ojb
J13/060

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1986

SUBJECT: Sectional analysis of HCS SB187 (2d HESS)
1/13/86 (draft)

TO: Representative Max Gruenberg

FROM: Edward H. Hein *EH*
Legislative Counsel

Section 1 provides that, for purposes of intestate succession, an adopted child inherits from the adoptive parents instead of the natural parents, unless the adoption decree specifically provides for continuation of inheritance rights through the natural parents. This eliminates a conflict between the adoption chapter and the intestate inheritance provisions.

Sec. 2 supplies the correct statutory reference for court ordered inspections of original birth certificates and other evidence of adoption or legitimation held by the bureau of vital statistics, and clarifies that the state registrar, not the regulations, must allow inspection by government agents.

Sec. 3 adds definitions to the vital statistics chapter, AS 18.50.

Sec. 4 establishes procedures and restrictions for release of information by the bureau of vital statistics to an adopted person regarding the person's biological parents. Proposed AS 18.50.500 would allow adopted persons 18 or older to ask the bureau to disclose the identity of the person's biological parents. The information may be disclosed only if the biological parent consents or, within 90 days, fails to object. A biological parent who files a written objection to disclosure of the parent's name and address before the adopted child turns 17 years of age must renew the objection on or after the child's 17th birthday in order to prevent disclosure that might be requested by the child. A biological parent may object or consent only to

disclosure of his or her own name and address. If either parent objects, that parent's name will be deleted from the copy of the original birth certificate given to the adopted child. Adopted children 18 and older, as well as biological parents, may submit notices of changes of name and address to the bureau for attachment to the child's original birth certificate.

Proposed AS 18.50.510 requires the bureau of vital statistics to provide to an adopted person 18 or older who requests the information, descriptive, historical, and medical information about the person's biological parents if the information is available from the bureau's adoption records.

Sec. 5 provides for a liberal construction of the adoption chapter, AS 25.23, to promote the best interests of adoptees. The language comes from a New Jersey statute and is adopted verbatim in order to pick up that state's judicial interpretations of the language.

Sec. 6 provides that a consent form for an adoption must include a statement of the right to withdraw consent and an acknowledgement that the consenter received a copy of the form.

Sec. 7 incorporates into the consent to an adoption a power of attorney giving the adoptive parents powers regarding the child's care, custody, property, etc., unless specifically limited in the consent form. The power of attorney is good for one year, or longer if the court approves for good cause. The court's extension beyond one year is not contained in AS 13.26.020. The power of attorney would not expire on the death or disability of the consenter, unless the consent form said so. C.f., AS 13.26.325 - 13.26.330.

Sec. 8 clarifies when the 10-day period for automatic withdrawal of consent to an adoption begins to run.

Sec. 9 is a cross-reference to AS 25.23.185(a), which is added in sec. 19 of the bill.

Sec. 10 deletes the definition of "stepparent," which is transferred to the definitions section, AS 25.23.240 by sec. 21 of the bill. Sec. 10 also changes the second sentence of AS 25.23.100(a) from the passive voice to the active voice.

Sec. 11 authorizes the court in an adoption proceeding to order notice by publication of an adoption hearing. This is intended to assist in notifying persons entitled to notice by law, but who cannot otherwise be found.

Sec. 12 requires the court in an adoption proceeding to consider the wishes of a minor under 10 who is to be adopted, if the minor is of "sufficient age and intelligence to state desires concerning the adoption." The authority of the court to appoint a guardian ad litem or attorney for a minor who is to be adopted is transferred here from AS 25.23.100(j), which is then repealed in sec. 23 of the bill. Also, the court is authorized by sec. 12 to issue protective orders and other orders that are in the best interest of a minor who is to be adopted.

Sec. 13 provides that an "open adoption," allowing visitation by natural parents or relatives, is an exception to the requirement that an adoption decree terminates all legal relationships between an adopted person and the natural parents and relatives. (See sec. 14 comments.)

Sec. 14 makes clear that "open adoption," as there defined, is not prohibited. This change is intended to resolve confusion on this question caused by the language of AS 25.23.130(a)(1), which says that the effect of an adoption is "to terminate all legal relationships between the adopted person and the natural parents and other relatives of the adopted person, so that the adopted person thereafter is a stranger to the former relatives for all purposes" This change has the effect of reversing the Alaska Supreme Court's holding in the case of In re W.E.G. and J.R.G., Op. No. 2998 (Dec. 6, 1985).

Sec. 15 makes clear that court adoption records may be inspected only with the court's consent; adoption records held by the Department of Health and Social Services, an adoption agency, or individuals may be inspected only with the consent of all interested persons or by court order; and that, excepted as provided here, adoption records held by the Bureau of Vital Statistics may be inspected only in accordance with AS 18.50.

Sec. 16 adds to AS 25.23.150(c) an exception for disclosures of the name or identity of adoptive parents and adopted children under proposed AS 18.50.500 - 18.50.510, and other provisions of law related to disclosure of adoption records that might be in conflict with this subsection if the exception were not inserted.

Sec. 17 allows a court to disclose a natural parent's identity and address only for a medical emergency or other extraordinary circumstance and with due process protections for the adopted child, the natural parents and the adoptive parents.

Sec. 18 incorporates into state law the federal requirement of reporting Indian child adoptions to the Secretary of the Interior under provisions of the Indian Child Welfare Act.

Sec. 19 specifies information that must be filed with the court with the petition for adoption and that must be transmitted by the court clerk to the state registrar of vital statistics. This is the information needed for the operation of AS 18.50.500 - 18.50.510. This section also requires private adoption agencies to maintain records containing this same information, and to transfer its records to the commissioner of health and social services if the agency discontinues adoption placements.

Sec. 20 corrects a statutory reference in existing law to provide for the addition of a new statute added by sec. 19 of the bill.

Sec. 21 adds a definition of "stepparent" for purposes of the adoption chapter, AS 25.23. See comments under sec. 10 of this sectional analysis.

Sec. 22 corrects a statutory reference necessitated by the repeal and transfer of AS 25.23.100(j). See comments under sec. 12 of this sectional analysis.

Sec. 23 repeals AS 25.23.100(j). See comments under sec. 12 of this sectional analysis.

Sec. 24 applies the open adoption provisions of this bill retroactively to certain adoption decrees that were entered before the effective date of the act and that involved visitation rights by a natural parent or relative of the adoptive child. The section also establishes a procedure for requesting a court to reconsider a denial of such visitation rights in adoption decrees entered on or after January 1, 1984.

Sec. 25 provides for an immediate effective date.



Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V
JUNEAU, AK 99811
465-3759

January 15, 1986

HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

LETTER OF INTENT

HCSSB 187 (2D HESS) - AN ACT RELATING TO
ADOPTION; AND PROVIDING FOR AN EFFECTIVE DATE.

1. Section 5 of the bill is identical to New Jersey Annotated Code 9:3-37 and is similar to California Civil Code Section 232.5. It makes the adopted person's best interests legally relevant at all stages of the adoption hearing, while giving due regard to the rights of the other parties. Under present law, the child's best interests may not be considered in determining whether to dispense with the natural parent's consent. D.L.J. v. W.D.R., 635 P.2d 834, 838 (Alaska 1981), S.M.K. and A.M.K. v. R.G.G., 702 P.2d 620, 623, n.6 (Alaska 1985). The intent of the section is not to abrogate the parental rights doctrine, but to focus the court's attention on the detriment to the child, rather than simply the unfitness of the parent. Adoption of D.S.C., 93 Cal.App.14, 23-24, 155 Cal.R.406, 410-11 (1979).

2. It is not the intent of the bill to prohibit common law adoptions. See Calista Corp. v. Mann, 564 P.2d 53 (Alaska 1977), "C." St. Foodland v. Estate of Renner, 596 P.2d 1170 (Alaska 1979).

3. This supercedes and replaces this committee's letter of intent of April 26, 1985. See 1985 House Journal at 1096.

Max F. Gruenberg, Jr.
Co-Chairman

Niilo Koponen
Co-Chairman

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1986

SUBJECT: Sectional analysis of HCS SB187 (2d HESS)
1/13/86 (draft)

TO: Representative Max Gruenberg

FROM: Edward H. Hein *EH*
Legislative Counsel

Section 1 provides that, for purposes of intestate succession, an adopted child inherits from the adoptive parents instead of the natural parents, unless the adoption decree specifically provides for continuation of inheritance rights through the natural parents. This eliminates a conflict between the adoption chapter and the intestate inheritance provisions.

Sec. 2 supplies the correct statutory reference for court ordered inspections of original birth certificates and other evidence of adoption or legitimation held by the bureau of vital statistics, and clarifies that the state registrar, not the regulations, must allow inspection by government agents.

Sec. 3 adds definitions to the vital statistics chapter, AS 18.50.

Sec. 4 establishes procedures and restrictions for release of information by the bureau of vital statistics to an adopted person regarding the person's biological parents. Proposed AS 18.50.500 would allow adopted persons 18 or older to ask the bureau to disclose the identity of the person's biological parents. The information may be disclosed only if the biological parent consents or, within 90 days, fails to object. A biological parent who files a written objection to disclosure of the parent's name and address before the adopted child turns 17 years of age must renew the objection on or after the child's 17th birthday in order to prevent disclosure that might be requested by the child. A biological parent may object or consent only to

disclosure of his or her own name and address. If either parent objects, that parent's name will be deleted from the copy of the original birth certificate given to the adopted child. Adopted children 18 and older, as well as biological parents, may submit notices of changes of name and address to the bureau for attachment to the child's original birth certificate.

Proposed AS 18.50.510 requires the bureau of vital statistics to provide to an adopted person 18 or older who requests the information, descriptive, historical, and medical information about the person's biological parents if the information is available from the bureau's adoption records.

Sec. 5 provides for a liberal construction of the adoption chapter, AS 25.23, to promote the best interests of adoptees. The language comes from a New Jersey statute and is adopted verbatim in order to pick up that state's judicial interpretations of the language.

Sec. 6 provides that a consent form for an adoption must include a statement of the right to withdraw consent and an acknowledgement that the consenter received a copy of the form.

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Sec. 14 makes clear that "open adoption," as there defined, is not prohibited. This change is intended to resolve confusion on this question caused by the language of AS 25.23.130(a)(1), which says that the effect of an adoption is "to terminate all legal relationships between the adopted person and the natural parents and other relatives of the adopted person, so that the adopted person thereafter is a stranger to the former relatives for all purposes" This change has the effect of reversing the Alaska Supreme Court's holding in the case of In re W.E.G. and J.R.G., Op. No. 2998 (Dec. 6, 1985).

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Sec. 18 incorporates into state law the federal requirement of reporting Indian child adoptions to the Secretary of the Interior under provisions of the Indian Child Welfare Act.

Sec. 19 specifies information that must be filed with the court with the petition for adoption and that must be transmitted by the court clerk to the state registrar of vital statistics. This is the information needed for the operation of AS 18.50.500 - 18.50.510. This section also requires private adoption agencies to maintain records containing this same information, and to transfer its records to the commissioner of health and social services if the agency discontinues adoption placements.

Sec. 20 corrects a statutory reference in existing law to provide for the addition of a new statute added by sec. 19 of the bill.

Sec. 21 adds a definition of "stepparent" for purposes of the adoption chapter AS 25.23. See comments under sec. 10 of this sectional analysis.

Sec. 22 corrects a statutory reference necessitated by the repeal and transfer of AS 25.23.100(j). See comments under sec. 12 of this sectional analysis.

Sec. 23 repeals AS 25.23.100(j). See comments under sec. 17 of this sectional analysis.

Sec. 24 applies the open adoption provisions of this bill retroactively to certain adoption decrees that were entered before the effective date of the act and that involved visitation rights by a natural parent or relative of the adoptive child. The section also establishes a procedure for requesting a court to reconsider a denial of such visitation rights in adoption decrees entered on or after January 1, 1984.

Sec. 25 provides for an immediate effective date.

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

MEMORANDUM

To: All members of the House Judiciary Committee
From: Hayden Kaden, Committee Counsel *HK*
Re: HCSSB187 (Jud)
Date: May 8, 1985

Last night, in considering HCSSB 187, "An Act relating to adoption", you adopted an amendment by Representative Taylor which added a new paragraph (4) found on page 6 of the bill. That amendment was amended by adding the words "if known" on line 13, after "certificate".

In other words, a statement must be included in the information filed with the court under AS 25.23.185 and that statement must be signed by each biological parent named on the original birth certificate.

If you add "if known" in that paragraph you should also add it on paragraphs (1) and (3).

I do not think "if known" adds anything to this section. If the parent is not known, he or she cannot sign, anyway. Also, on line 4, there is a requirement that if information required under this section is not available, there must be an explanation of its unavailability.

Therefore, I have asked the drafter to remove the words "if known" from paragraph (4) of page 6 of the bill. If you disagree with this action, please indicate below.

A M E N D M E N T

Offered in the HOUSE

By Taylor

TO: HCSSB 187 (HESS)

Page 2, line 7, following "(a)" through line 19, delete all material and insert:

"Except as provided in (b) of this section, upon receipt by the state registrar of a request by an adopted person 18 years of age or older for the identity of a biological parent of the adopted person, the state registrar shall provide the adopted person with an uncertified copy of the original birth certificate of the adopted person if

(1) a consent to disclosure by a parent named in the original birth certificate is on file with the state registrar; or

(2) within 90 days after notice of the request is sent by certified mail to the parent or parents named in the original birth certificate, deliverable to the addressee only, a written objection to disclosure is not received from the biological parent or parents named.

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

(1) after the adopted person is at least 17 years of age; or

(2) within 90 days after the date notice is mailed under

(a) of this section.

(c) If a parent named in an original birth certificate agrees to disclosure and the other parent named in the birth certificate objects to disclosure, the state registrar shall remove the name of the objecting parent before providing the birth certificate to an adopted person under (a) of this section."

Reletter remaining subsections accordingly.

Page 5, line 22, delete "and"

Page 5, line 25, delete "." and insert "; and"

Page 5, after line 25, insert:

"(4) a statement signed by each biological parent named on the original birth certificate that indicates whether the parent consents to disclosure of the parent's identity under AS 18.50.500 and acknowledges that a refusal to consent becomes effective under AS 18.-50.500 only if reaffirmed after the adopted person has reached 17 years of age."

State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

May 6, 1985

Representative M. Mike Miller
Chairman, House Judiciary
Pouch V
Juneau, AK 99811

RE: HCSSB 187 (HESS)

Dear Chairman Miller:

The above bill, including HESS Committee amendments, is extremely important to many family law practitioners, including myself. The bill provides that adoptive persons can learn the identity of their natural families, under certain specific circumstances. It will also permit "open" adoptions under which, in certain cases, courts can allow adopted persons to have continuing visitation with their natural families, if the court finds this is in the child's best interest.

Virtually all the testimony on this bill in the HESS Committee was favorable, and I know from my own experience in private practice that this bill will be very helpful.

After talking with Senator Rodey, I believe he will have no trouble accepting the HESS amendments, each of which was worked out with him before being added. Therefore, a conference committee should not be necessary.

I would be personally grateful if the House Judiciary Committee could schedule a hearing on the bill this week. It should take no more than one half hour.

Cordially,


Max F. Gruenberg, Jr.

MFG/ke

cc: Senator Pat Rodey
Representative Robin Taylor

*Thanks.
No teleconference
please!*

PATRICK M. RODEY
3271 MONTCLAIRE CT.
ANCHORAGE, AK 99503

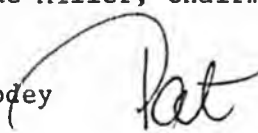
DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

ALASKA STATE SENATE

DATE: April 29, 1985

TO : Representative Mike Miller, Chairman, House Judiciary
Committee

FROM: Senator Patrick Rodey



RE : HCSSB187 (HESS) An Act relating to adoption

This above-referenced bill has been referred to your committee from the House HESS Committee. I would greatly appreciate your assistance in expediting this bill through your committee.

As you know, extensive hearings have been held in the Senate and House HESS Committees. The bill has a zero fiscal note.

Your consideration of this request would be appreciated.

* DELIVER TO: JFOM
* ORIGINAL
* SENT: 05/07/85 TIME: 08:47
* FROM: VERNITA VESTAL
* SUBJECT: POM
* PRINT DATE: 05/07/85 TIME: 08:50
*

TO: HOUSE JUDICIARY COMMITTEE:
REPRESENTATIVES M. MIKE MILLER, SUND, GRUENBERG, TAYLOR,
CLOCK SIN, PETTYJOHN, AND PHILLIPS

FROM: PUDGE KLEINKAUF
4201 MCINNES
ANCHORAGE, ALASKA 99508 (H) 563-6073 (W) 786-1714

RE: CSSB 187-INCREASING ACCESS TO SOME ADOPTION RECORDS

ALASKA CHAPTER NATIONAL ASSOCIATION OF SOCIAL WORKERS STRONGLY
SUPPORTS CSSB 187 RELATING TO ACCESS TO ADOPTION RECORDS AND
REQUESTS YOUR "DO PASS" VOTE IN JUDICIARY COMMITTEE DELIBERATIONS
TODAY.

*
* DELIVER TO JPOH *
*
* ORIGINAL *
* SENT: 05/02/85 TIME: 13:35 *
* FROM: MICKI HENSON *
* SUBJECT: POM *
* PRINT DATE: 05/02/85 TIME: 13:37 *

8

TO: HOUSE JUDICIARY

REPS. N.M. MILLER, SUNG, GRUENBERG, TAYLOR, CLOCKSIN,
PETTYJOHN, PHILLIPS

FROM: JODI WILCOX
PRESIDENT, ADOPTIVE PARENTS ASSOC.
2630 KINGSBRIDGE
ANCHORAGE, AK. 99504 PHONE: 338-5225 HM.

RE: SB 187 INCREASING ACCESS TO SOME ADOPTION RECORDS
I AM IN FAVOR OF THIS BILL AND I WOULD HOPE THAT YOU WOULD ALSO
SUPPORT IT.

EOM

 *
 * DELIVER TO: JPOH
 *
 *
 * ORIGINAL
 * SENT: 04/30/85 TIME: 16:55
 * FROM: LIOF
 * SUBJECT: POM/FAIRBANKS AN
 * PRINT DATE: 04/30/85 TIME: 16:55
 *

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TO: HOUSE JUDICIARY COMMITTEE

REPS: M.M. MILLER, SUND, GRUENBERG, TAYLOR, CLOCKSIN,
 PETTYJOHN, PHILLIPS

INTERIOR DELEGATION
 REPS: DAVIS, KOPONEN, M.M. MILLER, RINGSTAD, FRANK
 SENS: BENNETT, FAHRENKAMP, COGHILL

FROM: MARSHA SCHNEIDER, FAIRBANKS BRANCH OF NATIONAL ASSOC.
 OF SOCIAL WORKERS, P.O. BOX 10430, FAIRBANKS 99710

RE: SB187 ADOPTION

THE FAIRBANKS BRANCH OF NATIONAL ASSOC. OF SOCIAL WORKERS
 SUPPORTS SB187 BECAUSE THIS BILL WOULD PROTECT THE RIGHTS OF ALL
 PARTIES IN THE ADOPTION PROCESS. SB187 WOULD PROVIDE THE ADULT
 ADOPTEE WITH NON-IDENTIFYING INFORMATION SUCH AS HEALTH HISTORY
 ON HIS/HER BIOLOGICAL PARENTS.



SB187

ADOPTEE'S LIBERTY MOVEMENT ASSOCIATION
PO BOX 154 WASHINGTON BRIDGE STATION • NEW YORK NY 10033

FLORENCE FISHER, PRESIDENT
(212) 581-1568

TO: Representatives and Senators of the State of Alaska
FROM: Florence Anna Fisher, President, Adoptees' Liberty Movement Assn.
RE: INFORMATION ON ATTEMPT TO SEAL RECORDS IN THE STATE OF KANSAS, AND REJECTION OF SUCH ATTEMPT BY THE KANSAS STATE LEGISLATURE (see attached)

In light of the positive experience of the State of Alaska regarding open birth certificates, to yield to the paranoia of agencies and other vested interest groups would be a tragedy.

In 1983, there was an attempt by similar vested interest groups in the State of Kansas to establish a State Registry, and to seal birth records to adult adoptees.

The Legislature of the State of Kansas (see attached) rejected this attempt. Birth records, including all identifying information, remain available to adult adoptees in the State of Kansas.

May the Representatives and Senators of the State of Alaska respond with equal humanity.



STATE OF KANSAS

JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

YOUTH SERVICES

ROBERT C. HARDER, SECRETARY

2700 WEST 6TH STREET
TOPEKA, KANSAS 66606
(913) 296-3284
KANS-A-N 561-3284

October 29, 1984

Ms. Florence Fisher
17 Chittenden, Apt. 4E
New York, New York 10033

Dear Ms. Fisher:

Staff in your New Jersey office called and requested you be given information regarding Kansas experience in search activities. Because you need the information immediately, I am sending copies of letters written to other individuals and agencies. I hope these help.

In reviewing these letters, I found I emphasized the positive experiences have greatly outweighed any negatives.

It would be naive to say that every search has resulted in all parties in the adoption being happy with the results of the search. Some adoptive parents view the adult son or daughter's search as a reflection on their parenting ability. Some adoptees do not like the people they find and some genetic parents do not wish the contact. Because they are human there will be problems. Our agency believes there are more problems created when there is a "big brother" mentality that presumes the state can better decide for adults what information they are entitled to have about themselves.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peggy M. Baker".

(Mrs.) Peggy M. Baker
Foster Care Specialist
Foster Care Services Section

PMB:br
Enc.



File

STATE OF KANSAS

JOHN CARLIN, Governor

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

YOUTH SERVICES

ROBERT C. HARDER, Secretary

2700 WEST 8TH STREET
TOPEKA, KANSAS 66606
(813) 256-3284
KANSAS 561-3284

February 17, 1984

The Honorable Stephen C. Banton
Missouri House of Representatives
Representative, District 94
State Capitol
Jefferson City, Missouri 65101

Dear Mr. Banton:

As you requested, I am sending copies of Kansas statutes related to adoptions, as well as the public agency's policy statement and manual material. Many Kansas private agencies have adopted similar policies.

The Vital Statistics Act which was passed in 1951 permits an adopted adult to obtain their original birth certificate, if he was born in Kansas. Kansas statutes also permit "parties of interest" to obtain the court record. Most district judges have interpreted this statute to include the adopted adult.

During this legislative session a bill is being considered to mandate the biological parents file an affidavit giving complete genetic and health history if they are voluntarily consenting to the adoption. The bill requires that a Central Registry be established for these records and they will be made available to the adoptive parents or the adopted adults. It also provides that the genetic parents be informed of the existence of the central file and of their right to update records. I will obtain a copy of that proposed legislation and send it under separate cover. The state adoption planning team consisting of private and public adoption agency staff, adoptive parent groups and adoptees have requested this bill.

Neither this office or the Vital Statistics office are aware of any problems. We have contacted genetic parents and advised of their adopted adult search. Some have asked that their child not pursue the contact and we advise the adopted person of that decision. Some of the adopted adults have hurt feelings but as far as we know did not pursue those contacts. We have had biological parents volunteer to be donors in bone marrow and kidney transplants when they were notified of the need.

I believe the philosophy behind the laws and policies reflect the attitude that adults should be able to make their own decision about pursuing contact.

Representative Stephen C. Banton

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February 17, 1984

Volume
Section
630

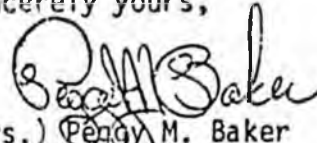
In the past ten years our office has received one complaint from an adoptive family that their adult "son" had met his genetic mother and was accepting gifts and money from her. They believed she was undermining their influence.

Two genetic parents when contacted said they did not want contact with the person they had relinquished. In both cases the adopted persons agreed to honor their genetic parents' wishes.

The major problem is lack of funding to adequately staff the central office and maintain records. Currently the requests submitted to this office are assigned as an additional responsibility to staff who have other job responsibilities with higher priorities.

If you have any questions, I can be reached at (913) 296-4660.

Sincerely yours,



(Mrs.) Peggy M. Baker
Foster Care Specialist
Foster Care Services Section

PMB:br
Enc.



file pb

STATE OF KANSAS

JOHN CARLIN, Governor

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

SOCIAL SERVICES

ROBERT C. HARDER, Secretary

2700 WEST 6TH STREET
TOPEKA, KANSAS 66606
(913) 236-3284
KANS-A-N 581-3284

August 25, 1981

Ms. Patsy Paulus
Administrative Assistant
Franklin County Children Services
1951 Gantz Road
Grove City, Ohio 43123

Attention: Michael L. Brown

Dear Ms. Paulus:

Your letter of August 18, 1981 concerning adoptive records is acknowledged. The last legislation concerning Kansas adoption records was passed in 1951. The legislation gave the adult adoptee the right to a copy of the original birth certificate. Attached are copies of the adoption statute, manual material, and our agency's position statement.

You will note that this agency support the sharing of information with adult adoptees; and facilitate reunions among consenting family members. We have gone on record as supporting the federal legislation and would be opposed to any effort to "close" records.

The Kansas department began adoptive placement in the 1930's and for 20 years, placed older children. At that time there was no thought that the children would conceal their original names or situations, our staff was honest with adoptive parents in sharing the child's name and circumstances leading to placement. Staff did not release the name or address of the genetic family. In the 1950's, the department began placing infants, but maintained the same procedures as we did for older children.

To our knowledge there have been no serious negative problems. No law suits have been filed and there has been no interest by the citizens to be more restrictive. All adoption agencies in the state have families waiting to adopt. The Department of Health and Environment maintains records on legal abortions. The women having abortions report a variety of reasons for the procedure; however, open records have never been cited as a reason.


Ms. Patsy Paulus

-2-

August 25, 1960.

The only agency I am aware of doing research on the long range effect of open records is Vista Del Mar in California. They may be able to assist. We would be interested in your findings and recommendations.

Sincerely yours,


(Mrs.) Peggy M. Baker
Deputy Compact Administrator
Foster Care Services Section
Division of Children & Youth

PMB:br
Att.

P R E L I M I N A R Y
M I N U T E S

SPECIAL COMMITTEE ON JUDICIARY

August 8 and 9, 1983
Room 519-S -- Statehouse

Members Present

Senator Elwaine Pomeroy, Chairman
Representative Joe Knopp
Senator Nancy Parrish
Senator Paul Feleciano
Senator Wint Winter, Jr.
Representative Frank Buehler
Representative Vic Miller
Representative Marvin Barkis
Representative Dale Sprague

Staff Present

Mark Burghart, Kansas Legislative Research Department
Mike Heim, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Others Present

Judge Herbert Walton, Family Law Advisory Committee of the Kansas Judicial Council
Randy Hearrell, Kansas Judicial Council
Susan Foglesong, Concerned United Birthparents
Nancy Smith, Concerned United Birthparents
June Tanner, Kansas City Adult Adoptee Organization
Paula Gramlich, Kansas City Adult Adoptee Organization
Judy Comstock, Topeka Adoptive Family Group
Linda Woody, National Organization for Women
Nancy Schenck, Adult Adoptee
Carolyn Sage, Topeka Adoptive Family Group
Rosemary Kutz, Topeka Adoptive Family Group
Barbara Scogel, Department of Social and Rehabilitation Services
Sharon Knowles, National Committee for Adoption
Jo Knowles, National Committee for Adoption
Mrs. Glen Silvers, Adoptive Parent
David Comstock, Topeka Adoptive Family Group
Pat Rich, National Committee for Adoption
Jan Waide, Department of Social and Rehabilitation Services
Roger Horsky, Leavenworth Attorney
Thad Nugent, Johnson County Attorney
Robertta Sue Hawver, Topeka Attorney
Kathleen Sebelius, Kansas Trial Lawyers Association
Barb Reinert, Kansas Women's Political Caucus
Andy Kenkel, Kansas Children's Service League
Donna Curry, Ottawa Adoptive Parent
Bill Curry, Ottawa Adoptive Parent
Susan Lovett, Wichita Adult Adoptees
Donald Pearson, Lutheran Social Services
Jan VanPatten, Lutheran Social Services
Irv Franzen, Department of Health and Environment
Kit Lambertz, Department of Social and Rehabilitation Services

August 9, 1983
Morning Session

Proposal No. 27 -- Uniform Parentage Act

Judge Herbert Walton of the 10th Judicial District, and a member of the Family Law Advisory Committee of the Kansas Judicial Council endorsed the proposed Kansas Parentage Act. He suggested the proposed act be amended in Section 6 to give putative fathers the right to bring a paternity action within five years of the birth of the child to address the issue raised by the recent Carty case that noted a putative father under current law has no right to bring an action if the mother denies his paternity.

Judge Walton noted the Family Law Advisory Committee had been directed by the Kansas Judicial Council to reconsider the surrogate mother issue. He said the Committee had a meeting scheduled in August and will consider the issue further at other meetings. He said the Committee's concerns were to protect the life and health of the fetus and to prevent selling children.

On the issue of establishing an adoption registry (Proposal No. 31), he said the proposal appeared to have merit.

Proposal No. 31 -- Adoption Registry

Susan Foglesong of Concerned United Birthparents, said the goal of her organization was to reunite birthparents with their children they put up for adoption. A copy of her statement is attached and explanations of the various adoption registry systems (see Attachment I). Her testimony includes a list of the states which have an adoption registry.

She suggested that an adoption registry, if established, should be governed by an advisory board. She said an essential function of a registry should be to educate parties seeking reunions as to what to expect. She noted that since Kansas has open birth certificate records for adoptees reaching the age of majority, there is not as strong a need for the registry.

Nancy Smith, a birthmother and an adoptee, said Kansas should leave its adoption records open. She said children have the right to know their medical records. She said a birth father should not have any veto power over an adoptee contacting both birthparents. A Committee member suggested that perhaps all adoptees should be told they are adopted and be given access to their heritage. Mrs. Smith said her birth records are in Missouri and are closed. She said she has been asked repeatedly about her nationality and heritage but is unable to respond since she has no way of knowing since this information is closed to her. She said she would not feel comfortable with the state acting as a contact intermediary for potential reunions between birthparents and adoptees. She noted she gave her son up for adoption at the end of a brief marriage when she was younger.

Paula Gramlich, an adoptee, said she had been searching for her birthparents for the past year. She said a person was needed to act as an intermediary before direct contact is made between an adoptee and their birthparents.

June Tanner, an adoptee, said she found her birthparents in 1979. She said an adoption registry should be open to siblings and contain information also about them.

The Committee recessed for lunch at 12:00 noon.

Afternoon Session

June Tanner continued her testimony. She said she had acted as an intermediary for 350 parties and only three birthparents had refused to see their natural children. In response to a question, she said Kansas law was great the way it is. She briefly described the function of an international adoption registry located in Carson City, Nevada.

Judy Comstock, representing the Topeka Adoptive Family Group distributed a registration form for the International Soundex Reunion Registry located in Carson City (see Attachment II). A copy of her remarks are also attached (see Attachment III). She said she had no objection to establishing a registry as long as the open adoption records law of Kansas is in no way changed.


Nancy Schenck, a Topeka adoptee, said she decided to try and find her biological parents in 1975. She was successful in a short amount of time. She expressed pride in

the current Kansas law on this subject. She became interested in finding out about her background through her teaching eighth grade social studies and stressing to her students the importance of recognizing different cultural and social backgrounds. She said it was imperative to leave the Kansas law as it is. She said more public awareness is needed of what groups are available to help persons in this situation with their searches.

Patricia Rich of Shawnee Mission, representing the National Committee for Adoption, said Kansas should establish an adoption registry and close adoption records which indicate the names of the birthparents and adoptees except for those parties who have agreed to share this information through the registry. She said reunions which have not been consented to by both parties can be traumatic and detrimental. She suggested the open records may cause some women to opt for an abortion rather than give birth and relinquish the child for adoption. She recommended the minimum age for an adoptee to be able to agree to be contacted by their birthparents, should be 21 years old. She said 11 states have an adoption registry. When asked, she said an open records system plus the adoption registry may be a better system than the current Kansas situation. Mrs. Rich is an adoptive parent of two girls.

Sharon Knowles of El Dorado also representing the National Committee for Adoption supported an adoption registry and closed adoption records. She noted her birth father had contacted her without her consent several years ago. She said the contact had been traumatic and disruptive. She said every adoptee should have the right to know their medical background. She said the registry would allow a mechanism to provide updated information. She noted her birthmother had a friend take down the car license tag number of the family that had adopted her child. Her birthmother then had subscribed to the El Dorado newspaper to keep track of her daughter. A copy of her statement and other materials she distributed are attached (see Attachment IV). She said she would prefer a registry with closed records but would support a registry with open records as a less preferable alternative.

August 9, 1983
Morning Session



The Committee was called to order by Senator Pomeroy, Chairman at 9:10 a.m.

Irvin Franzen of the Office of Vital Statistics of the Department of Health and Environment said his office establishes about 2,800 new birth certificates for adoptees each year. He said about 165 requests for original birth certificates are received each year. He estimated a registry would require the hiring of an added clerk. He said his Department was neutral on whether a registry should be established. Mr. Franzen said his office would be willing to provide information about different search and support groups if these groups would provide this information for distribution. For a copy of the materials Mr. Franzen left with the Committee, see Attachment V.

Jan Waide from the Department of Social and Rehabilitation Services (SRS) said SRS was proud of its record of helping people in the adoption area. SRS and its predecessor agencies have been keeping adoption records since 1936. She said adoption records are not completely open since court records of the adoption cannot be open without a court order. She said SRS, however, can release genetic, medical, and social history information. She said SRS could not release identifying information about adoptees who are minors unless their adoptive parents agree. She said SRS does not notify adoptees when they reach the age of majority that information about their background may be made available to them.

Ms. Waide noted releasing mothers are now told that their children have the right to see their original birth certificates when they reach 18 years of age. She noted SRS acts as an intermediary when persons involved in the adoption i.e., birthparents, adoptive parents, or adoptees want to contact one another.

She said it would be a tragedy to have a closed registry system. She noted that as of July 1, 1983, SRS was no longer keeping records of nonagency adoptions. Persons desiring information on nonagency adoptions will now have to go to the courts ordering the adoption for this information. She suggested the law be changed to require courts to forward adoption records to SRS.

Ms. Waide said SRS received 196 requests for adoption record information during the last fiscal year. She said 75 percent of those seeking information indicate they do not want personal contact. She estimated an adoption registry would require an added clerk plus an added professional staff person to operate the registry. She noted the

bulk of adoptions are stepparent adoptions. In response to a question, she said open records in Kansas has never been given as a reason for a woman to obtain an abortion. For a copy of the materials, Ms. Waide left with the Committee, see Attachment VI.

Donald Pearson of Lutheran Social Services of Wichita said he did not see the need for an adoption registry in Kansas. In response to a question, he said he was not aware of any woman who had opted for an abortion rather than put a child up for adoption due to Kansas open adoption records. He noted the trend was more openness in regard to adoptions. In Texas, a sister agency permits adoptive parents to be in the delivery room with the birthmother in some instances (see Attachment VII).

Susan Lovett, of the Wichita Adult Adoptees organization, opposed the concept of an adoption registry if records would be closed. She said birthparents should be given access to birth certificates so they could identify their children (see Attachment VIII).

Ms. Waide said a distinction should be made between those birthparents who had their parental rights severed involuntarily and those who voluntarily relinquished their children.

Proposal No. 29 -- Visitation Rights of Unwed Fathers

Mr. Roger Horsky, Leavenworth attorney who represented an unwed father in the case of Cary v. Martin, 233 Kan. 7 (1983) said visitation rights of unwed fathers should be limited. He said the best interests of the child should be the main concern and visitation should only be granted after an indepth study is conducted on the potential impact of the visitation. He said that in situations where the mother of the child is married, granting visitation to another man would only be asking for problems. He supported the proposed Kansas Parentage Act noting it allowed a judge to grant visitation rights to unwed fathers.

Thad Nugent, an attorney from Johnson County, appeared representing the Kansas Trial Lawyers and the Family Life Committee of the Kansas Catholic Conference. Representing the Kansas Trial Lawyers, he endorsed the proposed Kansas Parentage Act. He said the proposed act would solve many of the problems posed in the study of visitation rights of unwed fathers. He opposed any effort to close adoption records.

Speaking on behalf of the Kansas Catholic Conference, he opposed the surrogate mother process. He said surrogate motherhood diminished the importance of conjugal sexual intercourse and childbirth within the context of the family unit. He said the process dehumanized the birth process and treated children as products to buy and sell. He referred the Committee to the latest issue of the Family Law Quarterly, published by the American Bar Association which contained an article dealing with in vitro fertilization, embryo transfer, surrogate mothers and other related topics. He said the surrogate motherhood topic at the very least should be a subject of a major and thorough study. He said the proposed bill i.e., S.B. 361 fails to deal with far too many legal questions. He said legislation at this time would do a serious disservice to the state.

Proposal No. 32 - County Home Rule

The Committee reviewed the proposed final report on Proposal No 32.

Representative Miller made a motion to strike the word "strongly" on page 5 and the words "feels for the most part" and insert in lieu thereof the word "believes." Senator Parrish seconded the motion and it carried.

Representative Buehler made a motion to adopt the report as amended which Representative Knopp seconded. The motion carried.

Representative Miller made a motion to approve the June 29 minutes which was seconded by Representative Barkis. The motion carried.

Representative Miller made a motion to approve the July 7 and 8 minutes which Representative Knopp seconded. The motion carried.

The Committee then adjourned.

Prepared by Mike Heim and Mark Burghart

Approved by Committee on:

November 17, 1983

COMMITTEE REPORT

*Concl. on
p. 7*

TO: Legislative Coordinating Council
FROM: Special Committee on Judiciary
RE: PROPOSAL NO. 31 — ADOPTION REGISTRY*

Proposal No. 31 directed the Special Committee on Judiciary to determine the feasibility of creating a voluntary adoption registry in Kansas. A voluntary registry would facilitate voluntary contacts between adult adoptees, birthparents and relatives of deceased adoptees and birthparents by allowing the names and current addresses of the parties in interest to be maintained in a registry.

Background

The request for the interim study of the adoption registry concept was made on behalf of a representative of the National Committee for Adoption. The National Committee for Adoption, a membership organization comprised of individuals, families and agencies, is working to encourage states to enact mutual consent, voluntary adoption registries as the most prudent way to provide access to identifying information to adult adopted persons and biological parents. The organization has devised model state legislation which is designed to provide a sensitive legal way for both biological parents and an adult adoptee to voluntarily register their willingness to waive their confidentiality. States which have implemented some form of voluntary registry include: California, Colorado, Florida, Louisiana, Maine, Michigan, Nebraska, Nevada, and Texas.

* _____ Bill No. _____ accompanies this report.

Existing Confidentiality Statutes

Before the Committee could determine whether the state should implement some form of adoption registry, it was first necessary to determine the extent to which such a registry would alter existing Kansas law. It would appear that three different state agencies handle the various records associated with an adoption proceeding. Moreover, the standards for releasing such information varies with the particular agency involved. Those agencies maintaining adoption records include the registrar of vital statistics, where the original and supplemental birth certificates are filed; the district court, where the records of the actual adoption proceedings are kept; and the Department of Social and Rehabilitation Services (SRS) which maintains records of home studies conducted in adoption cases and records of adoptions of children relinquished to SRS or in the custody of SRS after termination of parental rights.

Registrar of Vital Statistics. Present law permits disclosure of an adoptee's original birth certificate only to the adoptee and only when the adoptee is an adult. This requirement first became a part of Kansas law in 1943. Prior to that time, there was no direct limitation on the disclosure of birth certificates in adoption cases.

State District Court. K.S.A. 1992 Supp. 59-212 requires that a separate appearance docket, closed to the public, be maintained in adoption cases.

K.S.A. 59-2279 allows disclosure of court files relating to adoptions only on order of the court to the "parties in interest" and their attorneys and to SRS personnel. There may be some question as to the individuals who would be included as a party in interest. One district court judge believes that such language would entitle an 13-year-old adoptee to such

court records. Furthermore, birthparents might also be construed to be parties in interest and thus be allowed access to the closed court records.

SRS Records of Adoption. K.S.A. 39-7096 provides records of the Department of Social and Rehabilitation Services are confidential if they concern an applicant for or a recipient of assistance. These records are open to the applicant or recipient in accordance with SRS rules and regulations.

The implementation of a registry as proposed by the National Committee for Adoption would alter existing Kansas law by restricting access to any identifying adoption information unless both the adult adoptee and birthparents waive their confidentiality.

1983 Legislation

H.B. 2099 made certain amendments relating to adoption investigations which directly impacted on the record keeping function of the Department of Social and Rehabilitation Services. The bill deleted the requirement that the Secretary of Social and Rehabilitation Services be given notice of certain adoption petitions and authorized the court to require the petitioner to obtain an assessment of the advisability of the adoption by a licensed social worker designated by the court. The bill authorized the court to use the Department of Social and Rehabilitation Services to make a social assessment and report to the court in adoption cases only if there is no licensed social worker available to make the assessment. The costs of any such assessment could then be assessed as court costs.

The effect of this bill is to provide that there shall be no central repository for adoption information. Rather, such information would be maintained in the district court clerk's offices spread throughout the state.

Committee Activity

The Committee received testimony from interested persons on one day and devoted a portion of two other days to Committee discussion and review of bill drafts on the proposal. The Committee also was made aware of certain correspondence which had been received by the Committee Chairman. Fifteen of the letters received were in support of the registry concept while 101 opposed the concept. Two letters were in support of the registry, but only if the open records policy was continued for adult adoptees.

Additionally, the Committee reviewed the model adoption registry legislation proposed by the National Committee for Adoption as well as the statutes of other states which have created voluntary adoption registries. The Committee also reviewed suggested amendments offered by the Kansas Adoption Planning Team.

Those individuals testifying before the Committee included: Susan Foglesong, Concerned United Birthparents; Nancy Smith, adult adoptee; Paula Gramlich, adult adoptee; June Tanner, adult adoptee; Judy Comstock, Topeka Adoptive Family Group; Nancy Schenck, adult adoptee; Donald Pearson, Lutheran Social Services; Susan Lovett, Wichita Adult Adoptees; Patricia Rich, National Committee for Adoption; Sharon Knowles, National Committee for Adoption; Irvin Franzen, Department of Health and Environment; Jan Waide, Department of Social and Rehabilitation Services; and Andy Kenkel, Kansas Childrens Service League, speaking on behalf of the Kansas Adoption Planning Team.

Testimony of Conferees

Patricia Rich and Sharon Knowles, National Committee for Adoption, spoke in support of the registry concept. Both urged that Kansas establish an adoption registry which would close those adoption records containing the names of the birthparents and adoptees, except those instances where the parties have agreed to share this information through the registry. They stated that reunions between birthparents and adoptees can be traumatic and detrimental to both parties if the reunion has not been mutually agreed upon in advance.

Mrs. Knowles related her personal experience when her natural father contacted her without her consent. That contact, however, did not result from the operation of any specific Kansas law, but rather because the biological mother had learned of the location of the adoptee by tracing the automobile license number of the adoptive parents. She noted that the contact had been traumatic and disruptive. As a final matter, Mrs. Knowles observed that the registry would be a mechanism to provide updated medical information on both the birthparents and the adoptee.

Those conferees who opposed the registry concept believed that Kansas should maintain its open records policy for adult adoptees. These individuals noted that adopted children should have the opportunity to discover the identity of their biological parents if they so desire. The creation of a registry would modify this long-standing policy by requiring the natural parents' consent to the release of identifying information before the adult adoptee could have access to such information.

Several conferees explained that organizations such as Concerned United Birthparents, Wichita Adult Adoptees and the Topeka Adoptive Family Group assist in arranging reunions between birthparents and adoptees. In addition to the actual search assistance, such groups also provide much needed counseling and support services to the individuals attempting a reunion.

Irvin Franzen, Office of Vital Statistics, Department of Health and Environment, stated that the Department has a neutral position on the creation of a registry. He pointed out that his office receives requests for roughly 165 original birth certificates per year from adult adoptees. Mr. Franzen also stated that his office would be willing to provide information about different search and support groups if these groups would supply this information for distribution.

Finally, Jan Waide, SRS, explained that the Department presently releases nonidentifying genetic, medical and social history information. However, identifying information about adoptees may be released only if the adoptive parents agree. She noted that SRS serves as an intermediary when persons involved in the adoption wish to contact one another.

Mrs. Waide indicated that as of July 1, 1983, SRS was no longer required to maintain records of nonagency adoptions. This change was brought about by the enactment of 1983 H.B. 2099 which generally provided that SRS would no longer conduct home studies in adoption cases or be informed of adoption proceedings as had been the case under prior law. She suggested that the law be amended to require courts to forward adoption records to SRS.

* Committee Conclusions and
Recommendations

~~After reviewing the comments of interested persons, the~~
~~Committee concluded that it is not desirable to implement a~~
~~mandatory adoption registry at this time. Rather, the Com-~~
~~mittee believes that the state should continue to maintain the~~
~~current records policy for adult adoptees.~~ In making this
decision, the Committee noted that the specific personal
situations cited by conferees supporting the creation of a
registry would have occurred even if there had been a registry
in existence. Furthermore, an adoption registry in all likeli-
hood would not prevent such cases from arising in the future.
It was the Committee's belief that if an adult adoptee was
intent on locating the adoptee's natural parents, there was
very little that could be done legislatively to prevent the
adoptee from doing so.

The Committee further believes that there should be a
central repository for adoption records. Consequently, the
Committee recommends that the 1984 Legislature enact legis-
lation which would rescind the action of the 1983 Legislature
when it passed 1983 H.B. 2099. The effect of this action
would be to reinstate the requirement that SRS be notified of
private adoption petitions and would require that home studies
be conducted in all adoption cases with the exception of
stepparent adoptions. In this manner, SRS would again become
the central repository for adoption information.

~~Additionally, the Committee recommends that more~~
~~detailed genetic and medical information concerning the~~
~~adoptee and biological parents be required to be filed at the~~
~~time of the adoption. The Committee also requests that the~~
~~Board of Registration and Health Statistics of the Depart-~~
~~ment of Health and Environment provide information about~~
~~groups which assist adult adoptees and natural parents seeking~~

The Committee's recommendations are incorporated in

Bill _____.

Respectfully submitted,

_____, 1983

Sen. Elwaine Pomeroy,
Chairperson
Special Committee on Judiciary

316-357-0311

Rep. Joe Knopp,
Vice-Chairperson
Sen. Paul Burke
Sen. Paul Feleciano
Sen. Nancy Parrish
Sen. Wint Winter, Jr.

Rep. Marvin Barkis
Rep. Frank Buehler
Rep. Vic Miller
Rep. Dale Sprague



P.O. BOX 154 WASHINGTON BRIDGE STATION, N.Y. N.Y. 10033
FLORENCE FISHER, PRESIDENT
(212) 381-1548

IN OPPOSITION TO: SENATE BILL NO. 187

March 1, 1986

Legislature of the State of Alaska
Fourteenth Legislature - 2nd Session

Can you imagine what it would be like to have to beg for *your* birth certificate?

My name is Florence Anna Fisher. I am writing today as President and Founder of ALMA, Adoptees' Liberty Movement Association. ALMA is the only non-profit international organization representing all persons separated by adoption, and is the largest organization of its kind in the world. Our membership also includes adoptive parents who support their now-adult child's search for the truth of his origins. Since March 21, 1971, ALMA has helped more than 9,000 families reunite through unilateral searching, and through the ALMA INTERNATIONAL REUNION REGISTRY DATABANK. The databank is a multi-level cross-indexing system containing the vital statistics of more than 500,000 persons separated through adoption, for possible matching.

I am author of *The Search for Anna Fisher*, the story of my own successful search for my natural parents, which was translated into several languages, and of which there are nearly 500,000 copies in circulation. It has appeared in Reader's Digest Condensed Books; as a Book-of-the-Month Club Alternate and was published in Great Britain in 1974, one year before their adoption records were unconditionally opened to adopted adults by the *Children Act of 1975*. The film rights are now the property of Warner Communications.

I am also writing as an adoptee.

Early in this century the United States Supreme Court held that the New Mexican peonage system constituted a violation of the 13th Amendment. But a New Mexican peon, if fleet enough, might escape before the sheriffs or alcaldes could catch him. He might even get out of the territory for good. The adoptee whose records have been sealed has no such option. It is not his body that the state has imprisoned, but his soul, his mind, his very identity.

One of the smokescreens those who argue against opening records to adult adoptees throw is: *We must protect the rights of all parties.* These critics of open records plead for equal treatment of adult adoptee, adoptive parent and natural parent, while conveniently forgetting that the adoptee is the only member of the triangle who was put into it without being consulted and without consenting to be there! *We were not voluntary adoptees!* There were only two parties to the adoption, the natural and adoptive parents. The only way whereby adoptee, adoptive parent and natural parent can be treated equally is to restore to the adoptee the rights that were taken away from him to serve the convenience of the two sets of parents at the time of his/her adoption.

Apart from slavery, there is no other instance in our law in which a contract made among adults can bind the child once he reaches his majority!

Another argument you will hear: *What are the rights of adoptive parents? Are they only the babysitters of their children? Aren't we all? What parent has legal control over his child once that child reaches the age of majority? Why should adoptive parents have rights that extend beyond the rights of any other parent? The adoptee is not searching for another set of parents at the age of 30 or 40 or 50. He is searching for the truth of his origin. He is searching for everything you as non-adopted persons know and take for granted. If the adoptive relationship has been a loving and textured*

that of their adopted children for them? They need have no fear. And if the adoptee finds another relationship with his natural parents. Isn't there room in the human heart for many loved persons? *If a parent can love more than one child, why can't a child love more than one parent?*

Last, the ultimate smokescreen - agency promises of *confidentiality* to the natural mother. By whom were such *promises* authorized? Wasn't *confidentiality* suggested by the agency to the distraught mother, rather than solicited by her? Hundreds of interviews with natural mothers, who comprise approximately 40% of our membership, have confirmed that indeed no such *promises of confidentiality* were ever made at the time of surrender. Rather, these mothers who begged to be kept informed of the progress and health of their children have had *confidentiality* rammed down their throats for a lifetime.

Upon reappearance of the searching adoptee, the same agency which was all too anxious to extract a relinquishment from the mother years earlier, has now suddenly rediscovered her. Under the pretext of concern for her *privacy* they now fight to *protect* mother from child. Ludicrous. It has been ALMA's experience that 98% of the mothers who have been found spent the years of separation praying for reunion with their lost children.

Yet - what of that other 2%? For one cannot deny the existence of these shadow-creatures.

Not even God can make the past not to have been taught St. Thomas Aquinas. But - what God cannot do, the adoption agency presumes to do. For the agency to promise the natural mother a *new life* is to hold out the spectre of instant reincarnation! *In a society where one is responsible for taking a life, one must be equally responsible for giving a life.* To perform a sexual act that brings another human being into the world is to render oneself accountable to that child for all time.

It is indefensible for the agency to indemnify the natural mother against accountability by granting her anonymity *from her own child.*

It is unconscionable for the agency to influence the mother to root her *new life* in a lie built on the grave of her child's human rights - *to save her own skin!*

It is inconsistent with humanity to *protect* the self-interests of the parent by condemning the child to lifelong anonymity.

The natural mother's right to surrender custody of the *child* must not include the right to sever the *adult* from his roots!

Lying on the witness stand is a criminal offense. There are very few other instances in life where the punishment for a discovered lie is as automatic and severe as in a court of law. Usually, an ethical attorney is able to persuade his client that lying is a poor legal tactic. *Why then, do the agencies rely on lies as the cornerstone of adoption? What is so threatening about the truth?* We pay lip-service to truth as the foundation of American family life, yet the sealed records empower agency and natural mother to collude in the deception of a prospective husband by not telling him that she has born a child who is the brother or sister of any children they will beget together. *In what other society is the behavior of a mother who separates her children from each other sanctioned, let alone condoned and supported?*

Our natural parents' *other* children are *our* brothers and sisters, *not* their *new* family. Our natural parents' brothers and sisters are *our* aunts and uncles. Our natural parents' parents are *our* grandparents.

The adopted person was *born* - not just *adopted*. He was conceived and carried by his natural mother in her womb, just as every other child is carried in its mother's womb. Our lives began, not just the day our natural parents gave birth to us, but with our grandparents, and their grandparents. Who we look like and walk like are more than *idle curiosity*. We are connected to a whole world of people who share *our blood, our*

The agency litany is that all this is done in *the best interests of the child*. Well, I am a 54-year old grandmother, and I am that *child* - and I am outraged to be told that *now* everyone else's best interests supersede mine.

We are born. We are alive. We are entitled to the records of our birth and adoption - and we want them! *Now!*

As adoptees, we know how difficult it is for the non-adopted person to identify with having been given away, stripped of an identity...stripped of roots.

What child hasn't fantasized in fear that he or she was adopted? What relief when the child is reassured by its parents that it is only a *fantasy*. Try to imagine what it would be like to find out that the fantasy is *reality* - and that the truth of *your* origins is denied to *you* forever.

Yes, it is easier for the non-adopted to identify with an infertile couple who want and need a child - or - a natural parent who once having told a lie is self-condemned to continue to live it - but -

Would *you* let someone take *your* mother away from *you*? *Your* father? *Your* daughter or son?

What would *you* do if someone told *you* that *you* could never speak to *your* mother, father, son or daughter? What would *you* do if *you* knew that *your* son or daughter was in trouble and trying to speak to *you* - desperately, longingly, hopefully - but that a stranger was preventing him or her from reaching *you*? Suppose it was *you* that was trying to reach them? Would *you* let a stranger stand in *your* way? For a minute? For an hour? For a day - week - year? For twenty years - forever?

When the founders of our country guaranteed to each citizen the right to life, liberty and the pursuit of happiness - can you believe that it was also in their minds to permit one citizen to sign away the rights of another?

Sealed records to adopted adults are to our Constitution as heresy is to the Bible.

Please help us to abolish them.

Florence Anna Fisher

Florence Anna Fisher

New York, N. Y., March, 1986

IN OPPOSITION TO: SENATE BILL NO. 187

March 1, 1986

Legislature of the State of Alaska

Fourteenth Legislature-2nd Session

April 2, 1986

Representative Mike Miller
Juneau's Representative
Alaska State Legislature
Juneau, Alaska

Dear Rep. Miller;

Since I am opposed to SB 187 - the adoption bill I hope you will consider the following items which I enclose:

- OVERTURE 39 - a resolution for OPEN RECORDS
By the Presbyterian Church
- Laws of Alaska 1947 - Chapt 51 - sections
10 & 14.

Please vote against any bill ~~that~~^{from} the conference committee which limits an adoptee's access to his original birth certificate. Better yet - urge the conference committee to kill this bill.

Adoptees, birth parents & adoptive parents overwhelmingly oppose this bill, as evidenced by testimony at the conference committee's hearings.

On behalf of my 8 year old adopted son - I
thank you

Jayce Lanier
5951 Alpine Woods Drive
Anchorage, AK. 99516

visions of Section 9 hereof before becoming absolute. This decree so entered shall contain an order granting custody of the child to the adoptive parent or parents, and, if same has been requested, the issuance and filing of a substitute birth certificate as hereinafter provided.

SECTION 9. FINAL DECREE ABSOLUTE, WHEN. Within six months after the entry of the final decree any parent who has not received actual notice of the adoption proceeding in time to appear or object thereto may move to vacate the decree, and for an award of the custody of the adopted child to him; providing, that such motion shall not be entertained unless accompanied by an affidavit disclosing good grounds for objection to the adoption. If it appears to the satisfaction of the Court that there are good grounds and sufficient reasons for setting aside the adoption if the allegations of the affidavit are true, the Court may order a hearing upon said motion, fix a time and place therefor, specify the parties to be notified which shall include all interested parties present at the original proceeding with ample time for their appearance, and upon such hearing the Court may deny the motion or grant the same by setting aside the adoption and make a re-determination of who shall have the custody of said child. No such motion shall be granted unless the person filing the same is a fit and proper person and otherwise entitled to the exclusive custody of such child as shown by the evidence at such hearing. Appeal may be taken as from a final decree.

SECTION 10. SUBSTITUTE BIRTH CERTIFICATE.

(a) Whenever six months has expired after a final decree of adoption and change of name has been entered in any Court of competent jurisdiction within the Territory of Alaska and no proceedings have been started to set same aside, or if the adoption is otherwise finally sustained, said Court shall, upon request by a proper party, send a certified copy of said decree to the Registrar

of Vital Statistics who shall, upon receipt thereof, prepare and issue a substitute certificate of birth of the child so adopted. This certificate shall contain all of the information required in an original certificate of birth, except that it shall show the new name of the child so adopted instead of the old, although the true date of the child's birth shall be retained, and shall give the statistical particulars of the foster parents in the place and in the stead of the natural parents and shall make no reference to the natural parents of the said child, and the statement pertaining to legitimacy shall in all such cases be shown in the affirmative. The Registrar shall strike out the words, "Attendant's Own Signature" on the substitute record and insert in their stead the words, "Territorial Registrar" and sign as such, and all dates of recording are to be left as on the original.

(b) The Registrar of Vital Statistics immediately upon completion of such substitute certificate shall seal his original record of the birth, and file in its stead the substitute birth certificate, and thereafter said original record so sealed may be opened by the Registrar only upon demand of the child so adopted upon his having attained his majority, or upon order of any Court of competent jurisdiction. Thereupon the Registrar shall send a certified copy of the substitute birth certificate to the Commissioner and/or recorder having on file the adopted child's original certificate of birth. Such recording officer shall forthwith enter the substitute copy in his files in the place and stead of the original copy on file. Upon such filing of the substitute birth certificate, said officer shall seal the original birth certificate and it may thereafter be opened only upon the same conditions as hereinabove prescribed for the Registrar.

(c) Upon request for issuance of a certified copy of a birth certificate after substitute certificate has been filed, the Commissioner, Recorder or Registrar, as the case may be, shall, as a matter of course, issue a certified copy of

Original birth records now on file in the office of the Registrar of Vital Statistics of any child adopted since 1913, shall be sealed and substitute birth certificate issued by said Registrar in the manner and form prescribed in Section 10 herein, and transmitted to the adopters.

SECTION 13. ADOPTION OF ADULT. If the petition be for the adoption of a person of legal age and competency and is accompanied by such person's verified consent duly acknowledged to have been given voluntarily, then neither investigation nor notice to any person nor the consent of any other person shall be required.

SECTION 14. RETROSPECTIVE EFFECT. It is also the intent and purpose of this Act that children born in Alaska and adopted prior to the effective date hereof shall be protected as to their names and social status. Upon the request of the adoptive parent or parents in any such case, or other proper person or agency, the Commissioner of the precinct wherein the proceedings were held or who has the case file as the result of consolidation of the original precinct with another, shall send a certified copy of the adoption decree to the Registrar of Vital Statistics, whereupon all of the steps prescribed in this Act for the issuance and filing of substitute birth certificates and sealing of original birth records shall be taken, and all other applicable provisions of this Act pertaining to substitute birth certificates and sealing of records of proceedings, shall, in such case, be applied.

SECTION 15. CONSTITUTIONALITY. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of the Act and such application to other persons or circumstances shall not be affected thereby.

Church supports rights of adoptee to find roots

The U.S. Presbyterian Church's Northern wing is the first American denomination to say adult adoptees should legally be able to learn the names of their natural parents.

The United Presbyterian Church, U.S.A., Wednesday called for an "open records policy" which would allow adopted persons, once adults, to gain access to their birth records, currently sealed at the time of adoption.

Their resolution says, "Permanent sealed records have created a mythology about adoption, which is that adopted persons have only one set of parents. The surrender paper in effect becomes a certificate attesting to the death of any relationship at any time between the original parent and child, thus creating for the child a pair of ghost parents who are not in their graves but who may live in the next town, or have hereditary illnesses

that do not surface until they are in the middle years and whose children, born later, may unknowingly risk incest with when they attend college or work in the same work places with their half-sisters or half-brothers."

The Rev. Susan Andrews, pastor of Kitchell Memorial Presbyterian Church in East Hanover, N.J., and a sponsor of the resolution, said the church must debate moral issues involved in the debate.

She said she became interested in the issue when a parishioner unsuccessfully searched for her birth mother. "She had an issue of human rights as well as one of pastoral rights," said Ms. Andrews.

The issue of "open records" for adult adoptees has been a legal battle between adoptee rights groups and state governments, which currently seal the records.

CHRONICLE - Houston, TEXAS
May 28, 1981

OVERTURE 39

a resolution for open records

by The UNITED PRESBYTERIAN CHURCH

1981

"Every great and commanding movement in the annals of the world is the triumph of enthusiasm. Nothing great was ever achieved without it." - Ralph Waldo Emerson

Once a year, 650 delegates from United Presbyterian Churches across the country meet to consider theological and social matters of importance to the church's ministry. In May, this body - the General Assembly - met in Houston, and one of the issues considered was that of supporting the rights of adult adoptees to the truth of their origins as outlined in Title V of the Model State Adoption Act.

Overture 39, the text of which follows, was channeled to the Social Justice and Rights of Persons Committee, and passed by that committee upon recommendation of a sub-committee which spent three hours discussing the issues with adoptees and adoptive parents present. When the Overture came up on the floor of the General Assembly, there was a thirty-minute debate, followed by a vote of approximately 600 - 25 in favor of the Overture. We are printing it for you in hopes that (a) you will be encouraged by it and (b) that you might consider submitting a similar document to your worshipping community for consideration and action. Judeo-Christian history has had a powerful impact on people the world over, and continues to do so. As religious bodies work for national and international peace, let us urge them to work on this area of peacemaking within and among persons on all sides of the adoption triangle.

OVERTURE ON RECOGNIZING THE RIGHT OF ADULT ADOPTEEES TO KNOWLEDGE OF THEIR ORIGINS BY ALLOWING THEM ACCESS, UPON REACHING THE AGE OF MAJORITY, TO THEIR ORIGINAL BIRTH CERTIFICATES, COURT AND AGENCY RECORDS...ALSO ON RECOGNIZING THE NEED OF ORIGINAL EXPERTS OF ADULT ADOPTEEES TO HAVE SOME MEANS TO COMMUNICATE THEIR DESIRES FOR CONTACT WITH THEIR RELINQUISHED SON OR DAUGHTER.

Whereas God our Creator saw fit to use an adult adoptee who was well aware of the truth of his origins to deliver the Israelites from bondage to the Egyptians; and

Whereas the Psalmist acknowledged the Presence of God in the creation of every individual when he said, "You created every part of me; you put me together in my mother's womb...when I was growing there in secret, you knew that I was there—you saw me before I was born"; and

Whereas Isaiah affirmed the unlikelihood of a mother's ability to erase the memory of a child she birthed when he said, "So the Lord answers, 'Can a woman forget her own baby and not love the child she bore?' Even if a mother should forget her child, I will never forget you"; and

Whereas Jesus said, "You will know the truth, and the truth will set you free"; and

Whereas the sealed records laws instituted in the last five decades have prevented adopted persons, over whom a contract is made in their infancy when they are helpless to participate in it, from ordinarily knowing the truth of their origins by permanently sealing original birth certificates, agency and court records pertaining to their adoption; and

Whereas any non-adopted person in the United States has the absolute right to obtain personal vital statistics for a minimal fee, an adoptee must go to court--a expensive and unsuccessful process--to request a judge to issue a "good cause" order to know the simple truth of who gave birth to her or him; and

Whereas because of permanently sealed records, adoptees have no medical, cultural or religious history and often experience emotional anguish; and

Whereas permanently sealed records have created a mythology about adoption, which is that adopted persons have only one set of parents; the surrender paper in effect becomes a certificate attesting to the death of any relationship at any time between the original parent and child, thus creating for the child a pair of ghost parents who are not in their graves but who may live in the next town, or have hereditary illnesses which do not surface until they are in their middle years (long after any medical history taken at the time of the child's birth), and whose children, born later, may unknowingly risk incest when they attend college or work in the same work places with their half sisters or brothers; and

Whereas our Lord spoke often of acceptance, forgiveness and reconciliation as qualities desirable for believers to experience daily in their human and spiritual growth; and

Whereas the Department of Health and Human Services now has before it the proposed Model State Adoption Act which includes "Title V. Records," which would grant adult adoptees the right of access to their original records to learn their identity at birth and that of their natural parents, and which would grant original parents of adult adoptees the right to ask the agency which handled the adoption to contact the adult adoptee to notify her/him that the original parent desires contact; a section supported in testimony by the National Association of Social Workers, "Not all adoptees will wish to know the birth parent, nor to meet her/him. But surely the option should be there as opposed to a rigid secrecy which can leave adoptees feeling that there is some monstrous secret in their past."

Therefore, the Presbytery of Newton, The United Presbyterian Church in America, sitting in regular session on 3/10/81 in Madison, N. J., does hereby overture the 193rd General Assembly of the United Presbyterian Church in the U.S.A. meeting in Houston, Texas, May 19-25, 1981:

That it go on record as supporting the rights of adult adoptees to receive, upon request, copies of their original birth certificates, court and agency records pertaining to their adoption;

That it support Title V of the Model State Adoption Act and Procedures prepared under section 202 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, which would grant adult adoptees the aforementioned information, and which would grant natural parents a more limited right as explained above;

That it act through the General Assembly Mission Council...in encouraging and stimulating synods, presbyteries and local churches to take the following types of action in supporting adoptees who have reached adulthood, in their desire to know the truth of their origins;

- 1) Send letters of support of Title V of the Model State Adoption Act to congresspersons and to the President of the U.S.;
- 2) Write letters to the editors of local newspapers and national magazines expressing support of open records;
- 3) Work to help all persons involved in the process.

Adoption

A BILL pending before the legislature takes a compassionate look at an old problem, offering a variety of solutions to the plight faced by parents who give up their children for adoption.

Searching for one's roots has been romanticized in recent years, with happy reunions becoming a stock-in-trade of the news media. But not all parents want to be reunited with their natural children, many of whom were born when the parents were children themselves.

Under present state law, adopted children may obtain their original birth certificates, and discover the identity of their biological parents, upon reaching the age of 18. But no protection is extended to those parents who don't want to be found.

THE NEW BILL would allow parents to instruct the state to either provide or not provide to their natural child a copy of the original birth certificate and the parents' names and addresses. In other words, the natural parents could say yea or nay to the request. Even if they wish to remain anonymous, certain information about them, including their race and nationality and the family's medical history, would be available to the child or

his adoptive parents.

Parents would not need to make this decision at the time of adoption. They could delay the decision until such time as the child requests the information.

Freedom of choice cuts both ways under this bill. An adopted child who has turned 18 could instruct the state to give his natural parents his name and whereabouts should they attempt to find him.

OPPONENTS of the measure say it discriminates against adopted children who try to find their biological parents. But that's not the way we read it.

On the contrary, it's important to understand — and accept — the fact that parents who give up a child sever that parent-child relationship. This is a difficult and emotional business, no doubt about it. But it is a decision the parents together, or perhaps most often the mother alone, must make in the hope that it will be best in the long run for the child.

And there is a compelling reason, it seems to us, to respect the desire of some parents to remain forever unknown. To suggest otherwise might give distraught young mothers a good argument for abandoning their babies on church steps.

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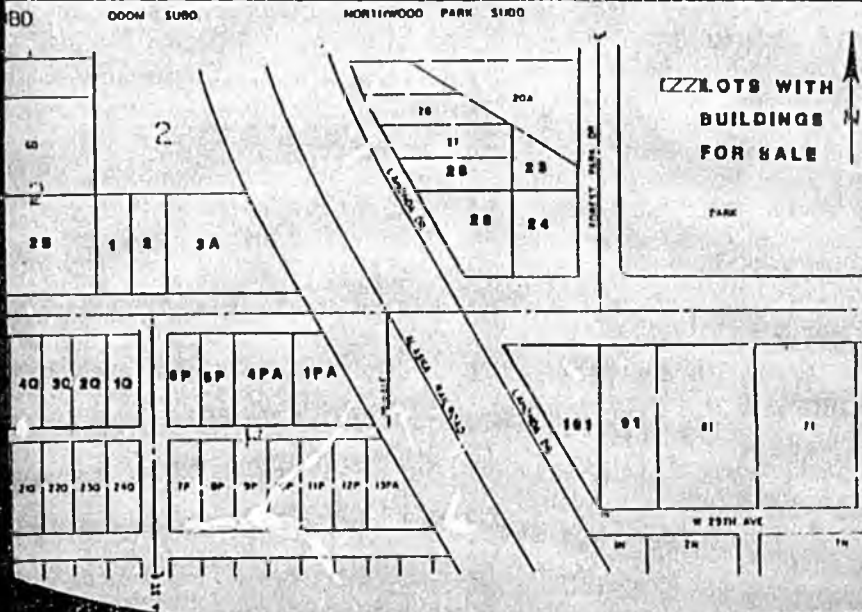
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REF M. MIKE MILLER

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JUNEAU AK

AS THE MOTHER OF ADOPTED CHILD I PLEAD FOR DELAY IN PASSAGE OF
SENATE BILL 187. ADVOCATES FOR RIGHTS OF CHILD HAVE NOT HEARD
OF THIS BILL UNTIL TODAY AND HAVE NOT HAD CHANCE TO EXPRESS
OPPOSING VIEWS. MY ADOPTED DAUGHTER WAS NOT GIVEN THE PRIVILEGE
OF CHOICE AT BIRTH. PLEASE DO NOT TAKE HER RIGHT OF ACCESS
WHICH REMAINS THE RIGHT OF EVERY NON-ADOPTED PERSON. HER HUMAN
DIGNITY SHOULD NOT BE DENIED BECAUSE SHE IS ADOPTED.

DOLores WEILER

10980 STROGANOF DRIVE

ANCHORAGE AK 99516

5500-A East 142nd Ave.
Anchorage, AK 99516
March 2, 1986

Representative M. Mike Miller
Pouch V (MS 3100)
Juneau, AK 99811

Dear Representative Miller:

Thank you very much for participating in yesterday's hearing on HCSSB187 in reference to adoption. We wish you could have remained for the entire teleconference. While we cannot agree with the attitude toward the rights of adoptees as reflected in all versions of the bill, we were truly grateful for the opportunity to be heard. We hope you have an open mind on the subject and can consider alternate approaches to the problem.

We testified and are now writing as a 65-year-old adoptee and his wife--25-year Alaska residents--who have suffered and been denied any assistance under Oregon's restrictive adoption laws. Please do not allow this to happen to Alaska's adoptees by approving either form of this bill. It needs to be rewritten with an entirely different approach. Alaska needs to provide better recognition of rights for the adult adoptee. No adult other than an adoptee can be so controlled to the grave by his/her biological parents.

All human beings have a right to privacy, but the adult adoptee's right to privacy is grossly invaded when he/she is prevented from knowing his/her genetic and medical history. The adult adoptee becomes a damaged person with no past, a clouded present, and an impaired future to pass on to generations to follow. Being an adoptee under these conditions is a half life, rather like the characters in Aldous Huxley's Brave New World, unable to look back to more than a "test tube."

It is ironic that we ease the way for salmon to migrate to their places of origin and pay more attention to the pedigrees of dogs and horses than we allow adoptees. Only for adult adoptees are social and genetic history irrelevant.

During the 1940s we learned in college courses that environment might be much more significant than heredity in a child's development. That belief no longer dominates the thinking of the scientific community, but it still seems to pervade the functioning of many social service agencies. In fact, inherited traits and conditions are ever-present. What does the insurance company or the doctor ask? Is there cancer, diabetes, heart trouble, etc. in your family? Of what did your parents, grandparents die? Under laws like this proposed, the adult adoptee must plead ignorance, to his own detriment, or lie.

It is farcical to assume that "non-identifying information" as described in the bill serves this purpose. Inherited diseases and

disabilities would not be named by the birth mother--even if she knew. It might prevent the adoption. Rather, such diseases and disabilities emerge as the parents and grandparents grow older. The adult adoptee must be free to find this information for himself/herself--like any other adult, as needs arise.

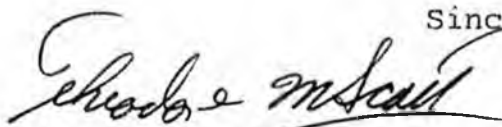
The personal satisfaction of tracing one's own roots is available to anyone except the adult adoptee. This is certainly an invasion of the privacy of the adult adoptee. Data presented by a social worker at yesterday's hearing were very interesting and applicable. England has open records. Adoptees are free to request their original birth certificates. The study quoted indicated that about 90% of adoptees who took this step wanted medical or genealogical information. They were not seeking to "replace" their adoptive parents nor to insert themselves into their natural parents' lives. They simply wanted and needed to know for their own sakes. This need is in no way addressed by "non-identifying information" prepared at the time of adoption.

After 65 years we and our children are still denied this right antiquated restrictive adoption laws. We have found to our sorrow that "registries"--recently added in Oregon--are no solution which make no provision for a 65-year-old to conduct an independent search for information about persons probably long ago deceased.

Please consider these problems as you consider this bill. Alaska has been open. Human rights have been emphasized. We haven't been bound by "how they do it outside." An Alaska Native adoptee and a birth mother both spoke at the hearing in favor of freedom of information. Let's keep it that way. Adult adoptees must have access to their original birth certificates. Don't invade their privacy by denying them this right.

Please feel free to call us at 345-1698 if we can be of help.

Sincerely,



Theodore M. Scott



Marilynn S. Scott