

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3408 HJUD SB 187 - SB 219

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



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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 —

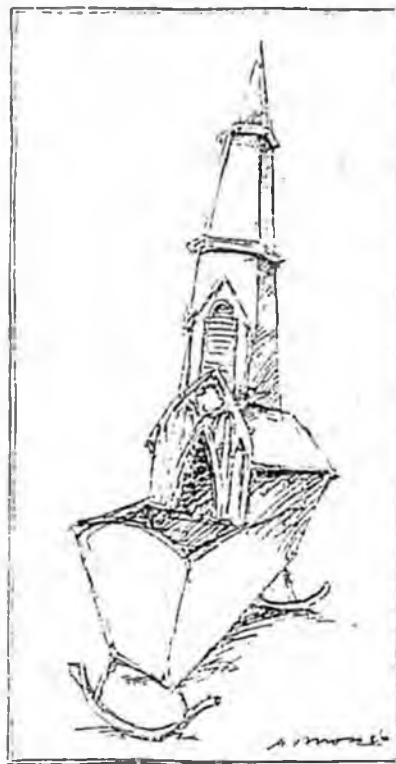
Written consent.....77 percent
Court order & written consent.....15 percent
Only with court order.....2 percent
Not at all.....4 percent
Don't know.....1 percent

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

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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

POUCHV
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.

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. 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



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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

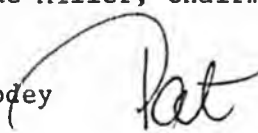
DURING SESSION:
POUCH V
JUNEAU, AK 99811
(907) 465-3717

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
 *

14

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

-2-

February 17, 1984

Volume
Section
630

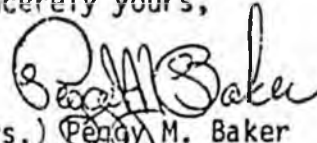
In the past ten years our office has received one complaint from an adoptive family that their adult "son" had met his genetic mother and was accepting gifts and money from her. They believed she was undermining their influence.

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 Carey 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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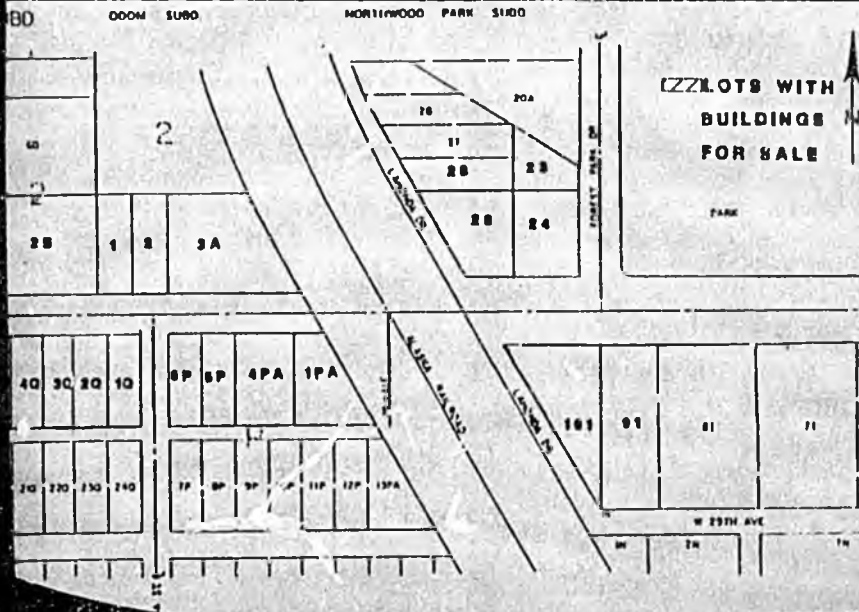
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REF M. MIKE MILLER

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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.

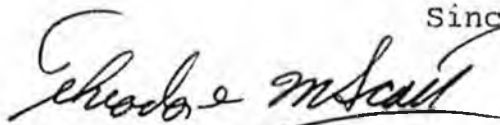
The personal satisfaction of tracing one's own roots is available to anyone except the adult adoptee. This is certainly an invasion of the privacy of the adult adoptee. Data presented by a social worker at yesterday's hearing were very interesting and applicable. England has open records. Adoptees are 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



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

7/25/89
Date

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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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 4/29/86

1:30 pm

HOUSE

COMMITTEE REPORT

(7)

Date referred: 2/11/86

FURTHER REFERRALS:

DATE: _____

The JUDICIARY Committee has considered CSSB 204 (Fin)

"An Act relating to contracts for architectural, engineering, and land surveying services; and providing for an effective date."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with _____ 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:

SIGNING OTHER RECOMMENDATIONS:

Chairman

Original sponsors: Sturgulewski and Edey

IN THE SENATE

BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 204 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to contracts for architectural, engineering, and land surveying services; and providing for an effective date."

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

* Section 1. AS 36.90 is amended by adding a new section to read:

Sec. 36.90.100. COMPLIANCE OF CONTRACTS WITH PROFESSIONAL REGISTRATION REQUIREMENTS. The state or a municipality may not award a contract for architectural, engineering, or land surveying services to

(1) an individual who is not registered under AS 08.48 to perform the architectural, engineering, or land surveying services required by the contract;

(2) a partnership that is not qualified under AS 08.48.251 to provide the architectural, engineering, or land surveying services required by the contract; or

(3) a corporation that is not authorized under AS 08.48.241 to offer the architectural, engineering, or land surveying services required by the contract.

* Sec. 2. AS 36.98.010 is amended to read:

Sec. 36.98.010. APPLICATION OF CHAPTER. Except as otherwise provided in AS 36.98.043, this [THIS] chapter applies to contracts for professional services provided to a state agency unless

(1) the total amount of the contract does not exceed \$25,000;

(2) the contract is an employment contract for services to

1 be performed under direct supervision regardless of the existence of
2 an employer-employee relationship and a written justification signed
3 by the person responsible for awarding the contract is filed with the
4 commissioner;

5 (3) the contract is awarded based on competitive bids
6 obtained under the procedure provided in AS 37.05.230.

7 * Sec. 3. AS 36.98 is amended by adding a new section to read:

8 Sec. 36.98.043. ARCHITECTURAL, ENGINEERING, AND LAND SURVEYING
9 CONTRACTS. (a) Notwithstanding the provisions of AS 36.93.010(3) and
10 36.98.040, a state agency shall negotiate a contract with the most
11 qualified and suitable firm or person of demonstrated competence for
12 architectural, engineering, or land surveying services. The state
13 agency shall award a contract for those services at fair and reason-
14 able compensation as determined by the state agency, after considera-
15 tion of the estimated value of the services to be rendered, and the
16 scope, complexity, and professional nature of the services. When
17 determining the most qualified and suitable firm or person, the state
18 agency shall consider the

19 (1) proximity to the project site of the office of the firm
20 or person; and

21 (2) employment practices of the firm or person with regard
22 to women and minorities.

23 (b) If negotiations with the most qualified and suitable firm or
24 person under (a) of this section are not successful, the state agency
25 shall negotiate a contract with other qualified persons or firms of
26 demonstrated competence, in order of public ranking. The state agency
27 may reject all or part of a proposal.

28 (c) This section does not apply to contracts awarded in a situa-
29 tion of public necessity if the person responsible for execution of

the contract on behalf of the state agency certifies in writing that a situation of public necessity exists.

(d) Notwithstanding the other provisions of this section, a state agency may include price as an added factor in selecting architectural, engineering, and land surveying services when, in the judgment of the state agency, the services required are repetitious in nature, and the scope, nature, and amount of services required are thoroughly defined by measurable and objective standards to reasonably enable firms and individuals making proposals to compete with a clear understanding and interpretation of the services required. In order to include price as a factor in selection, a majority of the members of the state agency selection committee involved in the evaluation of the proposals must be persons who are registered in the state to perform architectural, engineering, or land surveying services.

(e) The consideration of price under (d) of this section as a factor in the selection of architectural, engineering, and land surveying services may not exceed 20 percent of the scoring formula used in evaluating proposals. The state agency shall base the evaluation of price on a previously established schedule that objectively correlates price with points scored.

(f) This section does not apply to a contract that incorporates both design services and construction.

* Sec. 4. This Act applies to requests for bids or proposals for architectural, engineering, and land surveying services issued after the effective date of this Act.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Bannister ✓
4/23/86

Original sponsors: Sturgulewski and Rodey

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
 2 HOUSE CS FOR CS FOR SENATE BILL NO. 204 (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 contracts for architectural,
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 18 to provide the architectural, engineering, or land surveying services
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15 tion of the estimated value of the services to be rendered, and the
16 scope, complexity, and professional nature of the services. When
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21 (2) employment practices of the firm or person with regard
22 to women and minorities.

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24 person under (a) of this section are not successful, the state agency
25 shall negotiate a contract with other qualified persons or firms of
26 demonstrated competence, in order of public ranking. The state agency
27 may reject all or part of a proposal.

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29 tion of public necessity if the person responsible for execution of

1 the contract on behalf of the state agency certifies in writing that a
2 situation of public necessity exists.

3 (d) Notwithstanding the other provisions of this section, a
4 state agency ^[may] shall include price as an added factor in selecting
5 architectural, engineering, and land surveying services ^[only] when, in the
6 judgment of the state agency, the services required are repetitious in
7 nature, or the scope, nature, ^[or] and amount of services required are
8 thoroughly defined by measurable and objective standards to reasonably
9 enable firms and individuals making proposals to compete with a clear
10 understanding and interpretation of the services required.)

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13 tive date of this Act.

14 * Sec. 5. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).

16
17
18 → [In order to include price, ...]

19
20 → [e) In this section "state agency" includes a
21 municipality.]



RECORDS CERTIFICATION

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James O. Smith
Signature of Camera Operator

7/25/89
Date

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C O R R E C T I O N

Discard CSSB 219 (FIN) AM
and retain this corrected version.

Offered: 2/6/86
Referred: Health, Education and
Social Services

Original sponsors: Devries, Faiks,
Rodey, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SENATE BILL NO. 219 (Finance) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a special unit for the investi-
7 gation of repeated child sexual abuse and the crimi-
8 nal exploitation of children; and providing for an
9 effective date."

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

11 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that there
12 exists an increasing escalation of crime committed by and against children
13 and that delinquent acts are frequently the result of criminal and sexual
14 exploitation of children. There exists a need to establish a cooperative
15 local, state, and federal effort to contend with extra-familial child
16 sexual abuse, runaway or missing children, child pornography, prostitution,
17 drug sales and use, and the involvement of children in organized burglary
18 and larceny offenses.

19 * Sec. 2. AS 18.65 is amended by adding a new section to read:

20 Sec. 18.65.086. INVESTIGATIVE UNIT ON SEXUALLY ABUSED AND CRIM-
21 INALLY EXPLOITED CHILDREN. (a) There is established in the Depart-
22 ment of Public Safety, division of state troopers, a special unit for
23 the purpose of investigating cases of repeated child sexual abuse and
24 the criminal exploitation of children.

25 (b) The commissioner of public safety shall submit to the legis-
26 lature, within 30 days from the date the legislature convenes in
27 odd-numbered years, a report concerning the activities of the special
28 unit on repeated child sexual abuse and the criminal exploitation of
29 children. The report shall include, but is not limited to, the number

1 of arrests made in cases of repeated child sexual abuse and the crimi-
2 nal exploitation of children, the number of investigations that result
3 in the Department of Health and Social Services taking temporary or
4 permanent custody of the child, the sentences received by persons
5 convicted in the state of child sexual abuse or criminal exploitation
6 of a child, and an overall view of the problems of child sexual abuse
7 and the criminal exploitation of children in the state.

8 (c) In this section

9 (1) "child" means a person under 18 years of age at the
10 time the alleged offense was committed by or against the person;

11 (2) "criminal exploitation of children" means the use of a
12 child by an adult in a criminal manner for the personal gratification
13 or profit of the adult.

14 (3) "repeated child sexual abuse" means conduct that is a
15 criminal sexual offense against a child under AS 11 and that is com-
16 mitted against the child more than once;

17 * Sec. 3. This Act takes effect July 1, 1986.

ALASKA PEACE OFFICERS ASSOCIATION

DDC Coordinator
P.O. Box 103520
Anchorage, Ak.
99510-3520
(907) 376-9177



State APOA Office
P.O. Box 103520
Anchorage, Ak.
99510-3520
(907) 376-9177

March 4, 1986

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

Dear Mr. Miller:

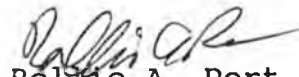
The Alaska Peace Officers Association, representing 898 peace officers statewide, would like to take this opportunity to urge the passing of Senate Bill 219 and adjoining House Bill 330 relating to the formation of a special unit to investigate cases involving exploited and missing children.

It is important that this unit be able to deal with the organized exploitation of youth in continuing criminal enterprise; homicide, robbery, burglary and narcotics. All too often, people feel that exploited children only relates to sexual abuse problems. However, many of the sexually abused children end up in the criminal enterprise. Missing persons, criminal enterprise, and child sexual exploitation are all related and it is important to deal with this problem as one and also deal with it on a statewide basis.

Page 2
March 4, 1986

During this time of diminishing revenues, we would sincerely hope that this unit is fully funded.

Sincerely,



Rollie A. Port
President

Alaska Peace Officers Assn.

P.S. Steve Kalwara is our local contact in Juneau. If further input is requested, please contact Sgt. Kalwara at the Juneau Police Dept. The phone number is 586-5211.

cc: file
Governor's Office
chapter presidents
Attorney General Hal Brown
Dep. Commissioner Vaden
Col. M. Kolivosky
Steve Kalwara