

Emergency
clause.

Section 2. An emergency is hereby declared to exist and this Act shall be in full force and effect immediately upon its passage and approval.

Approved March 20, 1947.

CHAPTER 51

AN ACT

[S. B. 47]

Relating to the Adoption of Children; establishing procedure therefor; authorizing issuance of Substitute Birth Certificates in such cases; and repealing Section 1141 to 1151, both inclusive, of the Compiled Laws of Alaska, 1933.

Be it enacted by the Legislature of the Territory of Alaska:

Who may
petition.

SECTION 1. ADOPTIONS. Any person not married or any husband and wife jointly, or either spouse when the object of adoption is the child of the other spouse or either husband or wife who are not living together as such, may petition the Commissioner's Court having probate jurisdiction of the precinct in which petitioner resides for adoption of any person, and, if desired, seek appropriate change of his name.

Consent
required.

SECTION 2. CONSENT REQUIRED. Written consent to such adoption must be filed prior to a hearing on such petition, as follows:

Person over 14
years.

(a) By the person to be adopted, if such person be fourteen (14) years of age or older, but the filing of such consent shall not obviate the necessity of filing other consents hereinafter required in the case of a minor.

(b) If the person to be adopted be of legitimate birth or one whose birth has been subsequently legitimized, and a minor, then by each of his living parents, except as hereinafter provided.

Living parents.

(c) If the person to be adopted be a minor of illegitimate birth, not subsequently legitimized, then by his mother if living, except as hereinafter provided; and such consent shall state whether the mother has named anyone as the putative father of the child and, if so, whether the putative father has or has not acknowledged paternity to the mother, and whether she has or has not notified the putative father of such paternity. If a putative father has been named, such consent shall state his name and last known address unless the same be unknown to the mother, in which case that fact shall be so stated. In adoptions in this category the consent of the natural father need not be obtained or notice given him, except that a putative father who has not been notified of his paternity, or one who has acknowledged paternity shall be given notice within or without the Territory, by serving him personally within twenty days prior to the hearing, if residing within the Territory of Alaska, or by mailing notice and copy of petition directed to him by first class registered mail postage prepaid to his last known address at least thirty days prior to the hearing, if residing outside the Territory of Alaska.

Illegitimate birth.

(d) If a legal guardian has been duly appointed for the minor to be adopted, then by such guardian.

Legal guardian

(e) By the executive head of the Department of Public Welfare: (1) in cases of orphans committed to said Department; (2) in cases of children committed to said Department where one or both parents are living but both, or the surviving parent, have been declared insane in the manner and over the period specified in Section 3 (a) hereunder, and not subsequently declared sane by a competent authority; (3) in cases of children

Department of Welfare.

committed to said Department who have been abandoned by both parents or the surviving parent, as the case may be, and such abandonment is adjudicated as specified in Section 3(c) or 3(d) hereunder.

(f) Consents by persons who do not wish knowledge of where the child is to be placed need not specify the name of the proposed adopter. Every consent shall be verified as to the truth thereof and acknowledged before a Notary Public or other person authorized to administer oaths to the effect that the same was executed voluntarily by the signer or signers thereof.

SECTION 3. CONSENT NOT REQUIRED. No consent for adoption of a minor shall be required as follows:

Consent not
required.

Insane parent.

(a) From a parent who was more than one year prior to the filing of a petition hereunder, duly adjudged to be insane, without thereafter having been legally declared sane.

Imprisoned
parent.

(b) From a parent who is imprisoned in the penitentiary at the time of the filing of the petition, under sentence for a term not less than three years.

Legal abandon-
ment.

(c) From a parent whose willful abandonment of such child has previously been established in any judicial proceeding.

Abandonment
for 30 days.

(d) From a parent whose willful abandonment for a period of not less than thirty (30) days preceding the filing of the petition is established in the adoption proceeding; providing, however, that in all such cases, personal service of a copy of the petition and notice of hearing must be had upon such parent within or without the Territory of Alaska not less than twenty (20) days prior to the date of such hearing.

(e) From a divorced parent who was not awarded full

or part-time custody of such child; providing however, that personal service of a copy of the petition and notice of hearing upon such parent within or without the Territory of Alaska must be accomplished in all such cases not less than twenty (20) days prior to the date of such hearing.

Divorced parent
with no custody.

(f) From a parent adjudged by the Court to be an unfit person to have the care and custody of the child, but a copy of the petition and notice of hearing must be served upon such parent by personal service within or without the Territory, at least twenty (20) days before such hearing.

Parent adjudged
unfit.

(g) If after due diligence personal service cannot be had upon a parent as classified and provided in either subsections (d), (e) or (f) of this section, notice may instead be given by sending the petition and notice to him by first class registered mail postage prepaid directed to his last known address at least thirty (30) days prior to the date of hearing.

Exception to
service.

SECTION 4. PETITION: HOW FILED. An adoption proceeding shall be instituted by filing a verified petition in the Commissioner's Court having probate jurisdiction of the precinct in which petitioner resides, and said court shall have original jurisdiction; provided, however, that in each such case the child will have been lawfully brought within the precinct prior to entry of final decree. In the alternative, such petition may be filed in the precinct wherein the child actually resides. Such petition shall contain allegations as to all material facts indicating that petitioners are fit and proper persons and including the new name, if any, to be given the child and including a statement as to whether the person or persons named as exercising actual care and custody of the child have agreed to the adoption and are willing to relinquish custody. Such petition shall be signed and verified under oath by the proposed adopter or adopters. If the petition

Filing of
petition.

be by one spouse to adopt a child of the other spouse, then it must be approved under oath by such other spouse. The petition, when filed, may be accompanied by such written consent or consents as is above required under the circumstances of the particular case; otherwise same must be filed in the case prior to hearing as jurisdictional requisite. Consents filed after filing of the petition must embody an acceptance of service of petition and notice of hearing and waiver of further notice.

**Time and place
of hearing.**

SECTION 5. NOTICE OF HEARING. A consent filed concurrently with the petition shall be deemed to be an admission of all the material allegations of the petition and a waiver of service of process and notice of hearing as well as a consent to the exercise of jurisdiction. Upon the filing of a petition and consents meeting the requirements of this Act the Court shall by order fix the place and time of hearing, which shall be not less than thirty (30) days after the entry thereof. Notice of the time and place of the hearing and a copy of the petition shall be served on the custodian of the child not later than twenty (20) days before the date set for the hearing unless a consent to adoption by such custodian is filed prior to the hearing. Notice of the hearing shall also be mailed to the Department of Public Welfare not later than thirty (30) days before the date set for the hearing, but such notice to such Department need be given only when the child has been committed to the custody of such Department as stated in Section 2(e) hereof. All notices of the hearing required by this Act shall be accompanied by a true copy of the petition when service is made. Prior to hearing, a return by affidavit as to personal service or mailing of notice, as the case may be, shall be filed in the action showing compliance herewith.

Objections.

SECTION 6. FILING OBJECTIONS. Any interested person may file objection to the granting of any adoption, but such objection shall not be considered by the Court unless the person filing the same shall appear and

testify in support of the objection when any parent, person having the custody of the child, or person seeking adoption of a child shall require the presence at such hearing of the person making the objection, and in such event such person making such objection may be subjected to cross-examination. Any interested person for good cause shown may apply for a continuance of said hearing, and the Court may defer, delay or continue any hearing in the furtherance of justice upon good cause being shown for such delay or continuance.

SECTION 7. HEARING. A hearing in chambers shall be had upon the petition at the time and place duly specified, and be conducted as in a proceeding of an equitable nature. Such proceeding shall be without a jury and the rules of evidence may be relaxed. The general public shall be excluded, but for good and sufficient reasons compatible with the best interest of the child, the Court may permit any person or persons to be present.

SECTION 8. DECREE AND ORDER. Upon the conclusion of such hearing, the Court shall enter its decree either granting or denying the petition, as follows: If the Court is satisfied with the identity and relations of the persons, and that the petitioner is of sufficient ability and in all respects a fit and proper person to bring up the child, and all other requirements of this Act have been met, the petition shall be granted; otherwise the petition shall be denied. The decree will be final unless reversed on appeal to the District Court.

Appeal may be had as in other probate cases, and the Department of Public Welfare may exercise said right of appeal in any case where the child has been previously committed to its custody and stated in Section 2(e) hereof. If the decree grants adoption, and, in the event of appeal, is sustained by the District Court, it shall be final. A final decree shall, however, be subject to the pro-

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.

Failure to
notify parent.

Hearing to set
aside.

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.

Form of
certificate.

(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.

Sealing of
records.

(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

Certified copies
issued.

the substitute birth certificate and such certified copy shall be accepted in all Courts and places as prima facie evidence of the date and place of birth of the person therein named.

Loss of rights
by natural
parent.

SECTION 11. ADOPTION TERMINATES RELATIONSHIP OF PARENT AND CHILD. By a decree of adoption, the natural parents, other than a spouse of an adopter, shall be divested of all legal rights and obligations in respect to such child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, and as to all legal incidents, the child, legal heir, and lawful issue of his or her adopter or adopters, entitled to all rights and privileges, including the right of inheritance and the right to take testamentary disposition, and subject to all the obligations of a child of the adopter or adopters as though begotten by them in lawful wedlock.

An adopter or adopters and the spouse of an adopted child, and their respective kin, shall have the rights of inheritance from such child as prescribed by the statutes of descent and distribution for natural parents, spouse and their respective kin to the exclusion of the adopted child's natural parents and kin, and any prior adopter or adopters and their kin; provided, that in cases where a natural parent is the spouse of an adopter, such natural and adopted parent and kin shall inherit the same as natural parents and their kin.

Records exposed
by court order.

SECTION 12. RECORDS TO BE SEALED. All records of any proceedings hereunder shall, after final termination, be sealed and shall not thereafter be open to inspection by any person except upon order of the Court, for good cause shown and thereafter shall be again sealed as before.

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.

Prior adoptions.

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.

Saving clause.

Repeal.

SECTION 16. REPEAL. This Act shall supersede and repeal all other laws of the Territory of Alaska in conflict herewith, relating to the adoption of children. Sections 1141 to 1151, both inclusive, of the Compiled Laws of Alaska, 1933, are specifically repealed.

Approved March 21, 1947.

CHAPTER 52

AN ACT

[S. B. 29]

To amend Section 13 of Chapter 32, Session Laws of Alaska, 1941, as amended, regulating the practice of law in Alaska.

Be it enacted by the Legislature of the Territory of Alaska:

Section 1. That Chapter 32, Session Laws of Alaska, 1941, as amended by Chapter 31, Extraordinary Session Laws of Alaska, 1946, is hereby amended in the following respects: That Section 13(a) of said Bar Act, as it appears in Section 6, Chapter 31, Extraordinary Session Laws of Alaska, 1946, is hereby amended to read as follows:

(a) Applicants who have practiced before another bar and seek admission in Alaska on their credentials, without examination, must produce, in addition to a recommendation from the President or Secretary of the Bar Association of the state, territory or district in which the applicant last practiced, an accredited certificate, which shall be a certificate from the

Certificates
required for
admission
without
examination.