

Sec. 24. NEW SECTION. JUDICIAL PRIORITY. Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this Act, the case shall be given calendar priority and handled expeditiously.

Sec. 25. NEW SECTION. SHORT TITLE. This Act may be cited as the "Uniform Child Custody Jurisdiction Act".

Sec. 26. Section five hundred ninety-seven point fifteen (597.15), Code 1977, is amended to read as follows:

597.15 CUSTODY OF CHILDREN. If the husband abandons the wife she is entitled to the custody of the minor children, unless the district court, upon application for that purpose, shall otherwise direct, or unless a custody decree is entered in accordance with the provisions of this Act.

Sec. 27. Section five hundred ninety-eight point twenty-one (598.21), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

When a dissolution of marriage is decreed, the court may make such order in relation to the children, property, parties, and the maintenance of the parties as shall be justified. Orders relating to custody of children shall be subject to the provisions of this Act.

Approved June 10, 1977

CHAPTER 140

ADOPTION AND PARENTAL RIGHTS

S. F. 363

AN ACT to make technical corrections and to clarify language in the adoption laws and the termination of parental rights laws, and to permit waiver of investigations in cases of adoptions by stepparents or relatives, to allow an investigator to make investigations for interstate or interagency placements, to change the time for giving notice of an adoption hearing from sixty days to twenty days before the hearing date, to eliminate the requirement for formal notice to the department and to the petitioner and the petitioner's spouse, to give the court discretion in the matter of opening records to an adult adopted person who has an adopted minor sibling, to codify provisions relating to access to adoption records which were passed by the 1976 session of the General Assembly, to provide that consents to adoption obtained prior to January 1, 1977 shall be unaffected by the termination requirements which become effective on that date, to eliminate the requirement of "disinterest" on the part of persons witnessing releases of custody, and to state two new grounds for termination of parental rights.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section six hundred point two (600.2), subsection two (2), Code 1977, is amended to read as follows:

2. "Investigator" means a natural person who is certified or approved, by the department as being capable of conducting an investigation under section 600.8.

Sec. 2. Section six hundred point three (600.3), subsection two (2), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

2. An adoption petition shall not be filed until a termination of parental rights has been accomplished except in the following circumstances:

- a. The person to be adopted is an adult.
- b. The parent's spouse is the adoption petitioner.

For the purposes of this subsection, a consent to adopt recognized by the courts of another jurisdiction in the United States and obtained from a resident of that jurisdiction shall be accepted in this state in lieu of a termination of parental rights proceeding.

Sec. 3. Section six hundred point five (600.5), subsections four (4), five (5), and ten (10), Code 1977, are amended to read as follows:

4. The name, residence, and domicile of any guardian, ~~or~~ custodian, or guardian ad litem for of the person to be adopted and the name, residence, and domicile of that person's guardian ad litem if one is appointed for the adoption proceedings.

5. The name, residence, and domicile of the petitioner, if this is not required to be stated under subsection 4 of this section, and the date or expected date on which the person to be adopted, if a minor, began or begins will begin living with the petitioner.

10. When and where termination of parental rights pertaining to the person to be adopted ~~have~~ has occurred, if termination was required under section 600.3.

Sec. 4. Section six hundred point eight (600.8), subsection two (2), paragraph a, Code 1977, is amended to read as follows:

a. A preplacement investigation and report of the investigation shall be completed and the prospective adoption petitioner approved for a placement by the person making the investigation prior to any agency or independent placement of a minor person in the petitioner's home in anticipation of an ensuing adoption. A report of a preplacement investigation that has approved a prospective adoption petitioner for a

placement shall not authorize placement of a minor person with that petitioner after one year from the date of the report's issuance. However, if the prospective adoption petitioner is a stepparent or a relative within the fourth degree of consanguinity who has assumed custody of a minor person to be adopted, a preplacement investigation of this petitioner and a report of the investigation may be completed at a time established by the court or may be waived as provided in section six (6)* of this Act. ~~Also, any investigation and report required under this subsection may be waived by the court if the prospective adoption petitioner is a stepparent or a relative to the person to be adopted within the fourth degree of consanguinity.~~

Sec. 5. Section six hundred point eight (600.8), subsection three (3), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

3. The department, an agency or an investigator shall conduct all investigations and reports required under subsection two (2) of this section.

Sec. 6. Section six hundred point eight (600.8), subsections eight (8) and ten (10), Code 1977, are amended to read as follows:

8. Any person designated to make an investigation and report under this section may request an agency or state agency, within or ~~without~~ outside this state, to conduct a portion of the investigation or the report, as may be appropriate, and to file a supplemental report of such investigation or report with the court.

In the case of the adoption of a minor person by a person domiciled or residing in any other jurisdiction of the United States, any investigation or report required under this section which has been conducted pursuant to the standards of that other jurisdiction shall be recognized in this state.

10. The department or an agency or investigator may conduct any investigations required for an interstate or interagency placement.

Any interstate investigations or placements shall follow the procedures and regulations under the interstate compact on the placement of children. Such investigations and placements shall be in compliance with the laws of the states involved.

Sec. 7. Section six hundred point eight (600.8), Code 1977, is amended by adding the following new subsection:

*Section seven (7) probably intended

NEW SUBSECTION. Any investigation and report required under subsection one (1) of this section may be waived by the court if the adoption petitioner is a stepparent of or is related within the fourth degree of consanguinity to the person to be adopted.

Sec. 8. Section six hundred point eleven (600.11), subsection two (2), Code 1977, is amended to read as follows:

2. At least ~~sixty~~ twenty days before the adoption hearing, a copy of the petition and its attachments and a notice of the adoption hearing shall be given by the adoption petitioner to:

a. A guardian, guardian ad litem if appointed for the adoption proceedings, and custodian of, and any person in a parent-child relationship with the person to be adopted.

b. The person to be adopted who is an adult.

~~c. --The department--~~

~~d~~ c. Any person who is designated to make an investigation and report under section 600.8.

e d. Any other person who is required to consent under section 600.7.

Nothing in this subsection shall require the petitioner to give notice to self or to petitioner's spouse.

A duplicate copy of the petition and its attachments shall be mailed to the department by the clerk of court at the time the petition is filed.

Sec. 9. Section six hundred point eleven (600.11), subsection three (3), Code 1977, is amended to read as follows:

3. A notice of the adoption hearing shall state the time, place, and purpose of the hearing and shall be ~~given according to the appropriate~~ served in accordance with rule fifty-six (56), subsection one (1), of the rules of civil procedure. Proof of the giving of notice shall be filed with the court prior to the adoption hearing ~~and approved by the court prior to issuance of an adoption decree under section 600.13.~~

Acceptance of service by the party being given notice shall satisfy the requirements of this subsection.

Sec. 10. Section six hundred point thirteen (600.13), subsection one (1), unnumbered paragraph one (1), and subsections two (2), three (3) and five (5) Code 1977, are amended to read as follows:

At the conclusion of the adoption hearing, the court ~~either~~ shall:

2. An interlocutory adoption decree automatically becomes a final adoption decree at a date specified by the court in the interlocutory adoption decree, which date shall not

be less than one hundred eighty days nor more than three hundred sixty days from the date the interlocutory decree is issued. However, an interlocutory adoption decree may be vacated ~~sooner than~~ prior to the date specified ~~in~~ for it ~~by the court for good cause shown~~ to become final. Also, the court may provide in the interlocutory adoption decree for further observation, investigation, and report of the conditions of and the relationships between the adoption petitioner and the person petitioned to be adopted.

3. ~~Except as enumerated in subsection 2, an interlocutory adoption decree shall have the same legal effect as a final adoption decree.~~ If an interlocutory adoption decree is vacated under subsection 2, it shall be void from the date of issuance and the rights, duties, and liabilities of all persons affected by it shall, unless they have become vested, be governed accordingly. Upon vacation of an interlocutory adoption decree, the court shall proceed under the provisions of subsection 1, paragraph "c".

5. An interlocutory or a final adoption decree shall be entered with the clerk of the court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the court and any other facts considered to be relevant by the court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree. The clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, one copy of any adoption ~~abstract~~ decree to the department and any agency or person making an independent placement who placed a minor person for adoption, and one certification of adoption as prescribed in section 144.19 to the state registrar of vital statistics. Upon receipt of the certification, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and deliver to the parents named in the decree and any adult person adopted by the decree a copy of the new birth certificate. The parents shall pay the fee prescribed in section 144.46. If the person adopted was born outside the state, the state registrar shall forward the certification of adoption to the appropriate agency in the state of birth. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certification of adoption is delivered and the birth certificate was originally prepared.

Sec. 11. Section six hundred point fifteen (600.15), sub-

section one (1), Code 1977, is amended by striking the subsection and inserting in lieu thereof the following:

1. a. A decree establishing a parent-child relationship by adoption which is issued pursuant to due process of law by a court of any other jurisdiction in or outside the United States shall be recognized in this state.

b. A decree terminating a parent-child relationship which is issued pursuant to due process of law by a court of any other jurisdiction in the United States shall be recognized in this state.

c. A document certified by the department as being proper evidence of termination of parental rights in a jurisdiction outside the United States shall be recognized in this state.

Sec. 12. Section six hundred point sixteen (600.16), subsection one (1), paragraph b, Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The adopted person, provided that person is an adult at the time the request for information is made.

Sec. 13. Section six hundred point sixteen (600.16), subsection two (2), Code 1977, is amended to read as follows:

2. The permanent termination of parental rights record of the juvenile court under chapter 600A and the permanent adoption record of the court shall be sealed by the clerk of the juvenile court and the clerk of court, as appropriate, when they are complete and after the time for appeal has expired. All papers and records pertaining to a termination of parental rights under chapter 600A and to an adoption, whether a part of the permanent termination and adoption records of the juvenile court and of the court or on file with a guardian, guardian ad litem, custodian, person who placed a minor person, or the department shall not be open to inspection and the identity of the natural parents of an adopted person shall not be revealed. However, an agency involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based on entitlement of benefits or inheritance from the terminated natural parents. Also, the clerk of the court shall, upon application to and order of the court for good cause shown, open the permanent adoption record of the court for the adopted person who is an adult and reveal the names of either or both of the natural parents. A natural parent may file an affidavit requesting that the court reveal or not reveal the parent's name. The court shall

consider any such affidavit in determining whether there is good cause to order opening of the records. If the adopted person who applies for revelation of the natural parents' name has a sibling who is a minor and who has been adopted by the same parents, the court ~~shall~~ may deny such application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling. To facilitate the natural parents in filing such affidavit, the department shall, upon request of such parent, file an affidavit in the court in which the adoption records have been sealed.

Sec. 14. Chapter six hundred (600), Code 1977, is amended by adding the following new sections:

NEW SECTION. The department may allow access to adoption records held by it or an agency if:

- a. The records were compiled prior to January 1, 1977;
- b. The identity of the natural parents of the adopted person is concealed from the person gaining access to the records; and,
- c. The person gaining access to the records uses them solely for the purposes of conducting a legitimate research project or of treating a patient in a medical facility.

NEW SECTION. A termination of parental rights proceeding or an adoption proceeding pending on January 1, 1977, or a release of parental rights or affidavit of consent or consent to adopt properly given prior to January 1, 1977 shall not be affected by the provisions of chapter one thousand two hundred twenty-nine (1229), Acts of the Sixty-sixth General Assembly, 1976 Session.

Sec. 15. Section six hundred A point two (600A.2), subsection seven (7), Code 1977, is amended by striking paragraph b.

Sec. 16. Section six hundred A point two (600A.2), subsections sixteen (16) and seventeen (17), Code 1977, are amended to read as follows:

16. "To abandon a minor child" means to permanently relinquish or surrender, without reference to any particular person, the parental rights, duties, or privileges inherent in the parent-child relationship. The term includes both the intention to abandon and the acts by which the intention is evidenced. The term does not require that the relinquishment or surrender be over ~~a long or~~ any particular period of time.

17. "Independent placement" means placement for purposes of adoption of a minor ~~person-by-a-person, other than an~~

~~agency,~~ in the home of a proposed adoptive parent in-anticipation-of-an-ensuing-adeption by a person who is not the proposed adoptive parent and who is not acting on behalf of the department or of a child placing agency.

Sec. 17. Section six hundred A point four (600A.4), subsection one (1), and subsection two (2), paragraph e, Code 1977, are amended to read as follows:

1. A parent shall not permanently alter the parent-child relationship, except as ordered by a juvenile court or court. However, custody of a minor child may be assumed by a step-parent or a relative of that child within the fourth degree of consanguinity or transferred by an acceptance of a release of custody. A person who assumes custody or who an agency which accepts a release of custody under this section becomes, upon assumption or acceptance, the custodian of the minor child.

e. Shall be witnessed by two ~~disinterested~~ persons familiar with the parent-child relationship.

Sec. 18. Section six hundred A point four (600A.4), subsection two (2), paragraph h, Code 1977, is amended by striking the paragraph and inserting in lieu thereof the following:

h. Shall state the purpose of the release, shall indicate that if it is not revoked it may be grounds for termination, and shall fully inform the signing parent of the manner in which a revocation of the release may be sought.

Sec. 19. Section six hundred A point four (600A.4), subsection three (3), Code 1977, is amended to read as follows:

3. Notwithstanding the provisions of subsection 2, an agency or a person making an independent placement may assume custody of a minor child upon the signature of the one living parent who has possession of the minor child if the agency or a person making an independent placement immediately petitions the juvenile court designated in section 600A.5 to be appointed custodian and otherwise petitions, either in the same petition or within a reasonable time in a separate petition, for termination of parental rights under section 600A.5. Upon the custody petition, the juvenile court may appoint a guardian as well as a custodian. ~~A-nonsigning parent-may-be-heard-on-the-custody-petition-at-the-hearing on-termination-of-parental-rights-provided-in-section-600A.6.~~

Sec. 20. Section six hundred A point four (600A.4), subsection four (4), Code 1977, is amended to read as follows:

~~4. A parent who signs a release of custody may petition, within the time prior to the hearing on termination of parental rights, or may request, at the hearing on termination of parental rights, the juvenile court designated in section 600A.5, to order the release revoked. If, within ninety-six hours of signing the release a parent petitions to have the release revoked, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release revoked only upon clear and convincing evidence that good cause exists for revocation.~~ Either a parent who has signed a release of custody, or a nonsigning parent, may, at any time prior to the entry of an order terminating parental rights, request the juvenile court designated in section six hundred A point five (600A.5) of the Code to order the revocation of any release of custody previously executed by either parent. If such request is by a signing parent, and is within ninety-six hours of the time such parent signed a release of custody, the juvenile court shall order the release revoked. Otherwise, the juvenile court shall order the release or releases revoked only upon clear and convincing evidence that good cause exists for revocation. Good cause for revocation includes but is not limited to a showing that the release was obtained by fraud, coercion, or misrepresentation of law or fact which was material to its execution. In determining whether good cause, other than fraud, coercion or misrepresentation, exists for revocation, the juvenile court shall give paramount consideration to the best interests of the child and due consideration to the interests of the parents of the child and of any person standing in the place of the parents.

Sec. 21. Section six hundred A point five (600A.5), subsection two (2), Code 1977, is amended to read as follows:

2. A petition for termination of parental rights shall be filed with the juvenile court in the county in which the guardian or custodian of the child resides or the child, the natural mother or the pregnant woman is domiciled. However, if a juvenile court has made an order pertaining to a minor child under section 232.33 and that order is still in force, the petition shall be filed with that juvenile court.

Sec. 22. Section six hundred A point six (600A.6), subsections one (1), two (2), four (4), five (5), six (6) and seven (7), Code 1977, are amended to read as follows:

1. A termination of parental rights shall, unless provided otherwise in this section, be ~~effectuated~~ ordered only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court except that notice need not be served on the petitioner or on any necessary party who is spouse of the petitioner. ~~A-"necessary~~ "Necessary party" includes means any person whose name, residence, and domicile ~~is~~ are required to be included on the petition under section 600A.5, subsection 3, paragraphs "a" and "b". ~~---However, a-"necessary-party"-does not-include~~ except a natural parent who has been adjudicated ~~to-have-raped~~ convicted of having sexually abused the other natural parent while not cohabiting with that parent as husband and wife, thereby producing the birth of the child ~~designated in-section-600A:57-subsection-37-paragraph-"a"~~ who is the subject of the termination proceedings.

2. Prior to the service of notice on the necessary parties, the juvenile court shall appoint a guardian ad litem for a minor child if the child does not have a guardian ~~or-guardian ad-litem~~ or if the interests of the guardian ~~or-guardian-ad litem~~ conflict with the interests of the child. Such guardian ad litem shall be a necessary party under subsection 1 of this section.

4. A necessary party whose identity and location or ~~last location~~ address is known shall be served ~~by-notice-personally delivered in accordance with rule fifty-six (56), subsection one (1), of the rules of civil procedure~~ or sent by ~~restricted certified mail restricted delivery,~~ whichever is determined to be the most effective means of notification. Such notice shall be ~~made~~ served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice ~~by-personal-delivery pursuant to rule fifty-six (56), subsection one (1), of the rules of civil procedure~~ shall be served not less than seven days prior to the hearing on termination of parental rights. Notice by ~~restricted certified mail restricted delivery~~ shall be sent not less than fourteen days prior to the hearing on termination of parental rights. A notice by ~~restricted certified mail restricted delivery~~ which is refused by the necessary party being noticed shall be sufficient notice to that party under this section.

Acceptance of notice by the necessary party shall satisfy the requirements of this subsection.

5. A necessary party whose identity is known but whose location or ~~last-location~~ address is unknown may be served by published notice. Such notice shall be served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. In addition to the requirements of subsection 3, such notice shall include only the name of the unlocated necessary party being noticed. Notice by publication shall be published once a week for two consecutive weeks, the last publication to be not less than seven days prior to the hearing on termination of parental rights.

6. The juvenile court shall require that every reasonable effort is made to identify, locate, and notice an unidentified ~~and-unlocated~~ necessary party. A reasonable effort to notice ~~this-necessary~~ such party shall not be by published notice which includes the name of any identified necessary party. If the juvenile court reasonably concludes, upon a proper showing, that the identity and location of the necessary party has not been determined, the juvenile court shall, upon proper findings and order entered of record, dispense with notice to this necessary party.

7. Proof of service of notice in the manner prescribed shall be filed with the juvenile court prior to the hearing on termination of parental rights ~~and-approved-by-the-juvenile-court-prior-to-issuance-of-a-termination-order-under-section-600A-8.~~

Sec. 23. Section six hundred A point seven (600A.7), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. The hearing on termination of parental rights shall be conducted in accordance ~~to~~ with the provisions of sections 232.27, 232.28, 232.30, and 232.32 and otherwise in accordance with the rules of civil procedure. Such hearing shall be held ~~not-less~~ no earlier than one week after the child is born.

2. Relevant information, including that contained in reports, studies or examinations and testified to by interested persons, may be admitted into evidence at the hearing and relied upon to the extent of its probative value. When such information is so admitted, the person ~~spensering~~ submitting it or testifying shall be subject to both direct and cross-examination by a necessary party.

Sec. 24. Section six hundred A point seven (600A.7), Code 1977, is amended by striking subsection three (3).

Sec. 25. Section six hundred A point eight (600A.8), subsection seven (7), Code 1977, is amended to read as follows:

7. A parent has been ordered to contribute to the support of the child or financially aid in the child's birth and has failed to do so without good cause. ~~This subsection shall not be construed so as to state a grounds for termination of parental rights of a noncustodial parent if that parent has not been ordered to or cannot financially contribute to the support of the child or aid in the child's birth.~~

Sec. 26. Section six hundred A point eight (600A.8), Code 1977, is amended by adding the following new subsections:

NEW SUBSECTION. A parent does not object to the termination after having been given proper notice and the opportunity to object.

NEW SUBSECTION. A parent does not object to the termination although every reasonable effort has been made to identify, locate and give notice to that parent as required in section six hundred A point six (600A.6) of the Code.

Sec. 27. Section six hundred A point nine (600A.9), Code 1977, is amended to read as follows:

600A.9 TERMINATION FINDINGS AND ORDER--VACATION OF ORDER.

1. Subsequent to the hearing on termination of parental rights, the juvenile court shall make a finding of facts and shall ~~order that either:~~

a. ~~The Order the petition be dismissed; or,~~

b. ~~The petition should not be granted at that time, but that conditions indicating that the child is in need of assistance exist, and an order to that effect is issued pursuant to section 232.33, or, Find that the petition should not be granted but that the child is a child in need of assistance as defined in section two hundred thirty-two point two (232.2), subsection thirteen (13) of the Code and shall issue an order pursuant to section two hundred thirty-two point thirty-three (232.33) of the Code; or,~~

c. ~~The Order the petition be granted.~~ The juvenile court shall appoint a guardian and a custodian or a guardian only. An order issued under this paragraph shall include the finding of facts. ~~This finding shall enumerate the factual basis which indicates that the parent-child relationship should be terminated and shall specify how this finding applies to the grounds upon which the termination is ordered.~~

Such finding shall specify the factual basis for terminating the parent-child relationship and shall specify the ground or grounds upon which the termination is ordered.

2. If an order is issued under subsection 1, paragraph "c" of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent to request vacation of the termination order if:

~~a. The~~ the child is not on placement for adoption or a petition for adoption of the child is not on file, ~~and~~

~~b. The guardian consents in writing to the vacation.~~
The juvenile court shall grant the vacation request only if it is in the best interest of the child.

3. A copy of any ~~findings of fact and~~ order made under this section shall be sent by the clerk of the juvenile court to:

- a. The department.
- b. The petitioner.
- c. The parents whose rights have been terminated if they request such copies.
- d. Any guardian, custodian, or guardian ad litem of the child.

Approved June 29, 1977

CHAPTER 141 PUBLIC TRANSIT PROGRAMS

H. F. 546

AN ACT relating to public transit programs by providing technical and financial assistance to political subdivisions and public and private providers of transportation services and providing for the receipt and disbursement of federal and private assistance for such programs.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section six hundred one J point four (601J.4), subsections one (1) and two (2), Code 1977, are amended to read as follows:

1. The department shall compile and maintain current information on available and pending federal, state, local, and private aid effecting urban and rural public transit programs. ~~Public and private providers applying for aid shall furnish a copy of any application for federal or private,~~