

SENATE FILE 41

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Rinas)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to termination of parental rights and adoption
2 and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. NEW SECTION. RULES OF CONSTRUCTION. This
2 Act shall be construed liberally. The welfare of the person
3 to be adopted shall be the paramount consideration in
4 interpreting this Act. However, the interests of the natural
5 parents, the adopting parents, and any other person standing
6 in loco parentis to the person to be adopted shall be given
7 due consideration in such interpretation.

8 Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act:

- 9 1. "Child" means a son or daughter of a parent, whether
10 by birth or adoption.
- 11 2. "Parent" means a father or mother of a child, whether
12 by birth or adoption.
- 13 3. "Parent-child relationship" means the relationship
14 between a parent and a child recognized by the law as
15 conferring certain rights and privileges and imposing certain
16 duties. The term extends equally to every child and every
17 parent, regardless of the marital status of the parents of
18 the child.
- 19 4. "Termination of parental rights" means a complete
20 severance and extinguishment of a parent-child relationship
21 between one or both living parents and the child.
- 22 5. "Natural parent" means a parent who has been a
23 biological party to the procreation of the child.
- 24 6. "Stepparent" means a person who is the spouse of a
25 parent in a parent-child relationship, but who is not a parent
26 in that parent-child relationship.
- 27 7. "Guardian" means a person who is not the parent of
28 a minor child, but who has been appointed by a court or
29 juvenile court having jurisdiction over the minor child to
30 make important decisions which have permanent effect on the
31 life and development of that child and to promote the general
32 welfare of that child. A guardian may be a court or a juvenile
33 court. Guardian does not mean conservator, as defined in
34 section six hundred thirty-three point three (633.3) of the
35 Code, although a person who is appointed to be a guardian

1 may also be appointed to be a conservator.

2 Unless otherwise enlarged or circumscribed by a court or
3 juvenile court having jurisdiction over the minor child or
4 by operation of law, the rights and duties of a guardian with
5 respect to a minor child shall be as follows:

6 a. To consent to marriage, enlistment in the armed forces
7 of the United States, or major medical, psychiatric, or
8 surgical treatment.

9 b. To serve as guardian ad litem, unless the interests
10 of the guardian conflict with the interests of the minor child
11 or unless another person has been appointed guardian ad litem.

12 c. To serve as custodian, unless another person has been
13 appointed custodian.

14 d. To make reasonable visitations if the guardian does
15 not have physical possession or custody of the minor child.

16 e. To consent to adoption and to make any other decision
17 that the parents could have made prior to termination of their
18 parental rights.

19 8. "Custodian" means a stepparent or a relative within
20 the fourth degree of consanguinity to a minor child who has
21 assumed responsibility for that child, a person who has
22 accepted a release of custody, or a person appointed by a
23 court or juvenile court having jurisdiction over a child.
24 The rights and duties of a custodian with respect to a child
25 shall be as follows:

26 a. To maintain or transfer to another the physical
27 possession of that child.

28 b. To protect, train, and discipline that child.

29 c. To provide food, clothing, housing, and ordinary medical
30 care for that child.

31 d. To consent to emergency medical care, including surgery.

32 e. To sign a release of medical information to a health
33 professional.

34 All rights and duties of a custodian shall be subject to any
35 residual rights and duties remaining in a parent or guardian.

1 9. "Guardian ad litem" means a person appointed by a court
2 or juvenile court having jurisdiction over the minor child
3 to represent that child in a legal action or to make other
4 decisions of substantial legal significance concerning that
5 child, not including the power to consent to the adoption
6 of that child.

7 10. "Minor" means an unmarried person who is under the
8 age of eighteen years.

9 11. "Adult" means a person who is married or eighteen
10 years of age or older.

11 12. "Agency" means a child-placing agency as defined in
12 section two hundred thirty-two point eight (232.8) of the
13 Code or the department.

14 13. "Department" means the state department of social
15 services or its subdivisions.

16 14. "Court" means a district or probate court.

17 15. "Juvenile court" means a juvenile court as established
18 under section two hundred thirty-one point one (231.1) of
19 the Code

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

28 17. "Independent placement" means a placement of a minor
29 child by a person who is not an agency but who is a licensed
30 physician or attorney of this state or a minister of the
31 gospel or priest of any denomination as designated in section
32 six hundred twenty-two point ten (622.10) of the Code in the
33 home of a proposed parent in anticipation of an ensuing
34 adoption.

35 Sec. 3. NEW SECTION. TERMINATION PRIOR TO ADOPTION

1 PETITION. Termination of parental rights of all parents shall
2 be accomplished only according to the provisions of section
3 four (4) through nine (9) of this Act and shall be effectuated
4 prior to the filing of an adoption petition under section
5 ten (10) of this Act. However, this section shall not apply
6 to the parent-child relationship existing between a child
7 and a parent whose spouse is a stepparent of that child or
8 between an adult child and his parents.

9 Sec. 4. NEW SECTION. RELATIONSHIP UNALTERED--RELEASE
10 OF PARENTAL RIGHTS--VOLUNTARINESS OF RELEASE.

11 1. A parent shall not alter the parent-child relationship
12 except as ordered by a juvenile court or court. However,
13 custody of a minor child may be assumed by a stepparent or
14 a relative of that child within the fourth degree of
15 consanguinity or transferred by an acceptance of a release
16 of parental rights. A person who assumes custody or who
17 accepts a release of parental rights under this section
18 becomes, upon assumption or acceptance, the custodian of the
19 minor child.

20 2. A release of parental rights:

21 a. Shall be accepted only by an agency or a person making
22 an independent placement.

23 b. Shall not be accepted by a person who desires to adopt
24 the child who is the subject of the release.

25 c. May have attached to it a waiver of the notice
26 prescribed in section six (6) of this Act if the waiver is
27 written, signed, and acknowledged as the release is required
28 to be.

29 d. Shall be in writing.

30 e. Shall be signed, not less than seventy-two hours after
31 the birth of the child to be released, by any living parent.

32 f. Shall be witnessed by two persons familiar with the
33 parent-child relationship.

34 g. Shall name the person who is accepting the release.

35 3. Notwithstanding the provisions of subsection two (2)

1 of this section, an agency or a person making an independent
2 placement may assume conditional custody of a minor child
3 upon the signature of the one living parent who has possession
4 of the minor child if the agency or a person making an
5 independent placement immediately petitions the juvenile court
6 designated in section five (5) of this Act to be appointed
7 custodian and otherwise petition, within a reasonable time,
8 for termination of parental rights under section five (5)
9 of this Act. Upon the custody petition, the juvenile court
10 may appoint a guardian as well as a custodian. A nonsigning
11 parent may be heard on the custody petition at the hearing
12 on termination of parental rights provided in section six
13 (6) of this Act.

14 4. A parent who signs a release of parental rights may
15 petition, in the time prior to the filing of a petition for
16 termination of parental rights, or may request, at the hearing
17 on termination of parental rights, the juvenile court
18 designated in section five (5) of this Act to order the release
19 revoked because it was not obtained voluntarily or with a
20 full understanding of the material facts. At a hearing on
21 voluntariness of the release, the juvenile court shall consider
22 all relevant factors, including coercion exerted by any person,
23 in determining the voluntariness of the release. The juvenile
24 court shall order a release of parental rights revoked only
25 upon a showing of clear and convincing proof that it should
26 be revoked.

27 Sec. 5. NEW SECTION. PETITION FOR TERMINATION.

28 1. The following persons may petition a juvenile court
29 for termination of parental rights if the child of the parent-
30 child relationship is born or expected to be born within two
31 hundred seventy days of the date of petition filing:

- 32 a. A parent of the parent-child relationship.
- 33 b. A custodian or guardian of the child.
- 34 c. Any other person who has knowledge of circumstances
35 indicating that the parent-child relationship should be

1 terminated.

2 2. A petition for termination of parental rights shall
3 be filed with the clerk of the juvenile court in whose
4 jurisdiction the child resides or is domiciled. However,
5 if a juvenile court has made an order pertaining to a minor
6 child under section 232.33 of the Code and that order is still
7 in force, the petition shall be filed with the clerk of that
8 juvenile court.

9 3. A petition for termination of parental rights shall
10 include the following:

11 a. The legal name, age, and residence or location of the
12 child.

13 b. The names, residences, and domicile of any:

14 (1) Living parents of the child.

15 (2) Guardian of the child.

16 (3) Custodian of the child.

17 (4) Guardian ad litem of the child.

18 (5) Petitioner.

19 (6) Person standing in loco parentis to the child if none
20 of the persons enumerated in subparagraphs one (1) through
21 four (4) of this paragraph can be located.

22 c. A plain statement of the circumstances indicating that
23 the parent-child relationship should be terminated.

24 d. A plain statement explaining why the petitioner does
25 not know any of the information required under paragraphs
26 a and b of this subsection.

27 e. The signature and verification of the petitioner.

28 Sec. 6. NEW SECTION. NOTICE OF TERMINATION HEARING.

29 1. A termination of parental rights shall, unless provided
30 otherwise in this section, be effectuated only after notice
31 has been served on all necessary parties and these parties
32 have been given an opportunity to be heard before the juvenile
33 court. A "necessary party" shall include any person whose
34 name, residence, and domicile is required to be included on
35 the petition under paragraphs a and b of subsection three

1 (3) of section five (5) of this Act. However, a "necessary
2 party" shall not include a natural parent who has been
3 adjudicated to have raped the other natural parent thereby
4 producing the birth of the child designated in paragraph a
5 of subsection three (3) of section five (5) of this Act.

6 2. Prior to the service of notice on the necessary parties,
7 the juvenile court shall appoint a guardian ad litem for a
8 minor child if the child does not have a guardian or guardian
9 ad litem, or if the interests of the guardian or guardian
10 ad litem conflict with the interests of the child. Such
11 guardian ad litem shall be a necessary party under subsection
12 one (1) of this section.

13 3. Notice under this section may be served personally
14 or constructively, as specified under subsections four (4),
15 five (5), and six (6) of this section. Such notice shall
16 include the time, place, and purpose of the hearing on
17 termination of parental rights.

18 4. A necessary party whose identity and location or last
19 location is known shall be served by notice personally
20 delivered or sent by certified mail, whichever is determined
21 to be the most effective means of notification. Such notice
22 shall be made according to the rules of civil procedure
23 relating to an original notice where not inconsistent with
24 the provisions of this section. Notice by personal delivery
25 shall be served not less than seven days prior to the hearing
26 on termination of parental rights. Notice by certified mail
27 shall be sent not less than fourteen days prior to the hearing
28 on termination of parental rights. A notice by certified
29 mail which is refused by the necessary party being noticed
30 shall be sufficient notice to that party under this section.

31 5. A necessary party whose identity is known but whose
32 location or last location is unknown shall be served by
33 published notice. Such notice shall be made according to
34 the rules of civil procedure relating to an original notice
35 where not inconsistent with the provisions of this section.

1 In addition to the requirements of subsection three (3) of
2 this section, such notice shall include only the name of the
3 unlocated necessary party being noticed. Notice by publication
4 shall be published once a week for two consecutive weeks,
5 the last publication to be not less than seven days prior
6 to the hearing on termination of parental rights.

7 6. a. The juvenile court shall require that every
8 reasonable effort is made to identify, locate, and notice
9 an unidentified and unlocated necessary party. If a necessary
10 party who is a natural parent is still not identified after
11 such effort, such necessary party shall be served by the
12 notice prescribed in subsection five (5) of this section.
13 However, such notice shall include, in addition to the
14 requirements of subsection three (3) of this section, only
15 the name of the known necessary party who is a natural parent
16 and the date or anticipated date of the child's birth.

17 b. Notwithstanding paragraph a of this subsection, if
18 upon application to the juvenile court, the juvenile court
19 determines that the notice prescribed in paragraph a of this
20 subsection is not likely to apprise the unidentified necessary
21 party who is a natural parent of the pendency of the
22 termination of parental rights action, then no notice shall
23 be served on such necessary party.

24 7. Proof of service of notice in the manner prescribed
25 shall be filed with the clerk of the juvenile court prior
26 to the hearing on termination of parental rights and approved
27 by the juvenile court prior to issuance of a termination order
28 under section eight (8) of this Act.

29 Sec. 7. NEW SECTION. TERMINATION HEARING--FORUM NON
30 CONVIENS.

31 1. The hearing on termination of parental rights shall
32 be conducted in accordance to the provisions of sections two
33 hundred thirty-two point twenty-seven (232.27), two hundred
34 thirty-two point thirty (232.30), and two hundred thirty-two
35 point thirty-two (232.32) of the Code and otherwise in

1 accordance with the rules of civil procedure. Such hearing
2 shall be held not less than two weeks after the child of the
3 parent-child relationship is born.

4 2. Relevant information, including that contained in
5 reports, studies, or examinations and testified to by
6 interested persons, may be admitted at the hearing and relied
7 upon to the extent of its probative value. When such
8 information is admitted, the person sponsoring it or testifying
9 shall be subject to both direct and cross-examination by a
10 necessary party, depending on the adverse interests of the
11 various necessary parties.

12 3. If the juvenile court finds that in the interest of
13 substantial justice the hearing on termination of parental
14 rights should be heard by another juvenile court, it may
15 transfer, stay, or dismiss the proceedings in whole or part
16 on any conditions that are just so long as a good faith attempt
17 is made to notify all necessary parties.

18 Sec. 8. NEW SECTION. GROUNDS FOR TERMINATION. The
19 juvenile court shall base its findings and order under section
20 nine (9) of this Act on a preponderance of the evidence.
21 The following shall be, either separately or jointly, grounds
22 for ordering termination of parental rights:

23 1. A parent has signed a release of parental rights
24 pursuant to section four (4) of this Act and has not petitioned
25 or requested to revoke that release.

26 2. A parent does not appear at the hearing on termination
27 of parental rights.

28 3. A parent has petitioned for the parent's termination
29 of parental rights pursuant to section five (5) of this Act.

30 4. A parent has abandoned the child.

31 5. A parent has substantially, continuously, or repeatedly
32 refused or neglected to comply with the duties imposed upon
33 that parent by the parent-child relationship.

34 6. A parent is palpably unfit to be a party to the parent-
35 child relationship because of specific conduct before the
36 child, behavior generally, or conditions determined by the

1 juvenile court as likely to be detrimental to the physical
2 or mental health or morals of the child.

3 7. If, following adjudication of neglect or dependency
4 under chapter two hundred thirty-two (232) of the Code,
5 reasonable efforts under the direction of the juvenile court
6 have failed.

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

15 Sec. 9. NEW SECTION. TERMINATION FINDINGS AND ORDER--
16 VACATION OF ORDER.

17 1. Subsequent to the hearing on termination of parental
18 rights, the juvenile court shall make a finding of facts,
19 including a declaration of maternity and paternity, and shall
20 order that either:

21 a. The petition be dismissed;

22 b. The petition should not be granted at that time, but
23 that conditions of neglect and dependency exist, and an order
24 to that effect is issued pursuant to section two hundred
25 thirty-two point thirty-three (232.33) of the Code; or,

26 c. The petition be granted and a guardian, possibly
27 including the juvenile court, and a custodian or a guardian
28 only is appointed.

29 2. If an order is issued under paragraph c of subsection
30 one (1) of this section, the juvenile court shall retain
31 jurisdiction to change a guardian or custodian and to allow
32 a parent to request withdrawal of the petition for termination
33 of parental rights and to vacate the termination order if:

34 a. The child is not on placement for adoption and a
35 petition for adoption of the child is not on file; and,

1 b. The guardian and custodian, if there are both, consent
2 in writing to the withdrawal and vacation.

3 The juvenile court shall grant the withdrawal and vacation
4 request if it is in the best interests of the child.

5 3. A copy of any findings of fact or order made under
6 this section shall be sent by the clerk of the juvenile court
7 to:

8 a. The department.

9 b. The petitioner.

10 c. The parents whose rights have been terminated if they
11 request such a copy.

12 d. Any guardian, custodian, or guardian ad litem of the
13 child.

14 Sec. 10. NEW SECTION. COMMENCEMENT OF ADOPTION ACTION-
15 -JURISDICTION--FORUM NON CONVIENS.

16 1. An action for the adoption of any natural person shall
17 be commenced by the filing of an adoption petition, as pre-
18 scribed in section twelve (12) of this Act, in the court of
19 the county in which an adult person to be adopted is domiciled
20 or resides, or in the court of the county in which the guardian
21 or custodian of a minor person to be adopted or the petitioner
22 is domiciled or resides.

23 2. If upon filing of the adoption petition or at any later
24 time in the adoption action the court finds that in the
25 interest of substantial justice the adoption action should
26 be conducted in another court, it may transfer, stay, or
27 dismiss the adoption action on any conditions that are just.

28 Sec. 11. NEW SECTION. QUALIFICATIONS TO FILE ADOPTION
29 PETITION. Any person who may adopt may file an adoption
30 petition under section ten (10) of this Act. The following
31 persons may adopt:

32 1. An unmarried adult.

33 2. A husband and wife together.

34 3. A husband or wife separately if the person to be adopted
35 is not the other spouse and if the adopting spouse:

- 1 a. Is the stepparent of the person to be adopted;
- 2 b. Has been separated from the other spouse by reason
- 3 of the other spouse's abandonment as prescribed in section
- 4 five hundred ninety-seven point ten (597.10) of the Code;
- 5 c. Is unable to petition with the other spouse because
- 6 of the prolonged and unexplained absence, unavailability,
- 7 or incapacity of the other spouse, or because of an
- 8 unreasonable withholding of joinder by the other spouse, as
- 9 determined by the court under subsection seven (7) of section
- 10 twelve (12) of this Act.

11 Sec. 12. NEW SECTION. CONTENTS OF AN ADOPTION PETITION.

12 An adoption petition shall be signed and verified by the
13 petitioner, shall be filed with the clerk of the court
14 designated in section ten (10) of this Act, and shall state:

- 15 1. The name, as it appears on the birth certificate or
- 16 as it appears as a result of marriage, and residence or
- 17 domicile of the person to be adopted.
- 18 2. The date and place of birth of the person to be adopted
- 19 if a birth certificate copy is not attached pursuant to section
- 20 thirteen (13) of this Act.
- 21 3. Any new name requested to be given the person to be
- 22 adopted if the adoption petition is finally granted.
- 23 4. The name, residence, and domicile of any guardian,
- 24 custodian, or guardian ad litem for the person to be adopted.
- 25 5. The name, residence, and domicile of the petitioner,
- 26 if this is not required to be stated under subsection four
- 27 (4) of this section, and the date or expected date on which
- 28 the person to be adopted, if a minor, began or begins living
- 29 with the petitioner.
- 30 6. The name, residence, and domicile of any parent of the
- 31 person to be adopted.
- 32 7. A designation of the particular provision in section
- 33 eleven (11) of this Act under which the petitioner is qualified
- 34 to adopt and, if under paragraph c of subsection three (3)
- 35 of section eleven (11), a request that the court approve the

1 petitioner's qualification to adopt.

2 8. A description and estimate of the value of any property
3 owned by or held for the person to be adopted.

4 9. A description of the facilities and resources, including
5 those provided under a subsidy agreement pursuant to section
6 six hundred point eleven (600.11) through section six hundred
7 point sixteen (600.16) of the Code, that the petitioner is
8 willing and able to supply for the nurture and care of any
9 minor person to be adopted.

10 10. When and where termination of parental rights
11 pertaining to the person to be adopted have occurred, if
12 termination was required under section three (3) of this Act.

13 Sec. 13. NEW SECTION. ATTACHMENTS TO AN ADOPTION PETITION.

14 An adoption petition shall have attached to it the following:

15 1. A certified copy of the birth certificate or
16 verification of birth record of the person to be adopted.

17 2. A copy of any order terminating parental rights with
18 the person to be adopted.

19 3. Any written consent and verified statement required
20 under section fourteen (14) of this Act, except the consent
21 required under paragraph d of subsection one (1) of that
22 section.

23 4. Any pre-placement investigation report that has been
24 prepared at the time of filing pursuant to section fifteen
25 (15) of this Act.

26 Sec. 14. NEW SECTION. CONSENTS TO THE ADOPTION.

27 1. An adoption petition shall not be granted unless the
28 following persons consent to the adoption or unless the court
29 makes a determination under subsection four (4) of this
30 section:

31 a. Any guardian or custodian of the person to be adopted.

32 b. The spouse of a petitioner who is a stepparent.

33 c. The spouse of a petitioner who is separately petitioning
34 to adopt an adult person.

35 d. The person to be adopted if that person is fourteen

1 years of age or older.

2 2. A consent to the adoption shall be in writing, shall
3 name the person to be adopted and the petitioner, shall be
4 signed by the person consenting, and shall be made in the
5 following manner:

6 a. If by the person to be adopted, in the presence of
7 the court in which the adoption petition is filed.

8 b. If by any other person, before a notary public.

9 3. A consent to the adoption may be withdrawn prior to
10 the issuance of an adoption decree under section twenty (20)
11 by the filing of an affidavit of consent withdrawal with the
12 clerk of the court. Such affidavit shall be treated in the
13 same manner as an attached verified statement is treated under
14 subsection four (4) of this section.

15 4. If any person required to consent under this section
16 refuses to or cannot be located to give consent, the petitioner
17 may attach to the petition a verified statement of such refusal
18 or lack of location. The court shall then determine, at the
19 adoption hearing prescribed in section nineteen (19) of this
20 Act, whether, in the best interests of the person to be adopted
21 and the petitioner, any particular consent shall be unnecessary
22 to the granting of an adoption petition.

23 Sec. 15. NEW SECTION. PLACEMENT INVESTIGATIONS AND
24 REPORTS.

25 1. a. A pre-placement investigation shall be directed
26 to and a report of this investigation shall answer the
27 following on forms provided by the department:

28 (1) Whether the home of the adoption petitioner is a
29 suitable one for the placement of the minor person to be
30 adopted.

31 (2) Whether the conditions and antecedents of the minor
32 person to be adopted make that person suitable for placement
33 with the adoption petitioner.

34 (3) How the adoption petitioner's emotional maturity,
35 finances, health, relationships, and any other relevant factor

1 may affect the petitioner's ability to accept, care, and
2 provide the minor person to be adopted with an adequate
3 environment as that person matures.

4 (4) What is the complete family medical history of the
5 person to be adopted, including any known genetic, metabolic,
6 or familial disorders.

7 (5) What is the complete medical and developmental history
8 of the person to be adopted.

9 b. A post-placement investigation and a report of this
10 investigation shall:

11 (1) Verify the allegations of the adoption petition and
12 its attachments and of the report of expenditures required
13 under section sixteen (16) of this Act.

14 (2) Evaluate the progress of the placement of the minor
15 person to be adopted.

16 (3) Determine whether adoption by the adoption petitioner
17 may be in the best interests of the minor person to be adopted.

18 2. a. A pre-placement investigation and report of the
19 investigation shall be completed and the placement approved
20 by the investigator prior to any agency or independent
21 placement of a minor person in a home in anticipation of an
22 ensuing adoption. However, if the adoption petitioner is
23 a stepparent or a relative within the fourth degree of
24 consanguinity who has assumed custody of a minor person to
25 be adopted, a pre-placement investigation of this petitioner
26 and a report of the investigation may be completed at a time
27 established by the court. Also, any investigation and report
28 required under this subsection may be waived by the court
29 if the adoption petitioner is a stepparent or a relative to
30 the person to be adopted within the fourth degree of
31 consanguinity.

32 b. The minimum residence period prescribed in section
33 seventeen (17) of this Act shall not begin running until the
34 pre-placement investigation and its report are completed,
35 approved, and filed with the clerk of the court.

1 c. If an investigator does not approve a placement under
2 paragraph a of this subsection, the persons having been inves-
3 tigated may appeal the disapproval to the court. The court
4 shall order the investigator to show cause why the placement
5 should not be made.

6 3. The agency making an agency placement shall conduct
7 the pre-placement investigation and report required under
8 subsection two (2) of this section. The department shall
9 conduct all other investigations and reports required under
10 subsection two (2) of this section and may charge a fee
11 commensurate with the services rendered of up to two hundred
12 dollars.

13 4. A post-placement investigation and report of the
14 investigation shall be completed and the report filed with
15 the clerk of the court prior to the holding of the adoption
16 hearing prescribed in section nineteen (19) of this Act.
17 The court shall appoint any qualified person to conduct this
18 investigation and report.

19 5. Any investigation or report required under this section
20 shall not apply when the person to be adopted is an adult.

21 6. Any person designated to make an investigation and
22 report under this section may request an agency or state
23 agency, within or without this state, to conduct a portion
24 of the investigation or the report, as may be appropriate,
25 and to file a supplemental report of such investigation or
26 report with the court.

27 7. The department may investigate, on its own initiative
28 or on order of the court, any placement made or adoption
29 petition filed under this Act and may report its resulting
30 recommendation to the court.

31 8. Any person who assists in or impedes the placement
32 or adoption of a minor person in violation of the provisions
33 of this section shall be, upon conviction, guilty of a
34 misdemeanor.

35 Sec. 16. NEW SECTION. REPORT OF EXPENDITURES.

1 1. An adoption petitioner of a minor person shall file
2 with the clerk of the court, prior to the adoption hearing,
3 a full accounting of all disbursements of anything of value
4 paid or agreed to be paid by or on behalf of the petitioner
5 in connection with the petitioned adoption. This accounting
6 shall be made by a report prescribed by the court. The report
7 shall be signed and verified by the petitioner and shall show
8 any expenses incurred in connection with:

- 9 a. The birth of the minor person to be adopted.
- 10 b. Placement of the minor person with the adoption
11 petitioner.
- 12 c. Medical care received by the natural parents or the
13 minor person during the pregnancy or delivery of the minor
14 person.

15 d. Any other services relating to the adoption or to the
16 placement of the minor person which were received by or on
17 behalf of the petitioner, the natural parents, or any other
18 person, including legal fees.
19 The provisions of this subsection do not apply in a stepparent
20 adoption.

21 2. A natural parent shall not receive anything of value
22 as a result of the natural parent's child or former child
23 being placed with and adopted by another person, unless that
24 thing of value is commensurate with some necessary service
25 provided the natural parent in relation to childbirth, child
26 raising, or delivering the child for adoption. If the natural
27 parent does receive any prohibited thing of value under this
28 subsection, such natural parent shall be, upon conviction,
29 guilty of a misdemeanor.

30 Sec. 17. NEW SECTION. MINIMUM RESIDENCE OF A MINOR CHILD.
31 The adoption of a minor person shall not be decreed until
32 that person has lived with the adoption petitioner for a
33 minimum residence period of one hundred eighty days. However,
34 the court may waive this period if the adoption petitioner
35 is a stepparent or related to the minor person within the
36 fourth degree of consanguinity or may shorten this period

1 upon good cause shown when the court is satisfied that the
2 adoption petitioner and the person to be adopted are suited
3 to each other.

4 Sec. 18. NEW SECTION. NOTICE OF ADOPTION HEARING.

5 1. The court shall set the time and place of the adoption
6 hearing prescribed in section nineteen (19) of this Act upon
7 application of the petitioner. The court may continue the
8 adoption hearing if the notice prescribed in subsections two
9 (2) and three (3) of this section is given, except that such
10 notice shall only be given at least ten days prior to the
11 date which has been set for the continuation of the adoption
12 hearing.

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

- 17 a. A guardian, guardian ad litem, custodian, and any
- 18 parent of the person to be adopted.
- 19 b. The person to be adopted who is an adult.
- 20 c. The department.
- 21 d. Any person who is designated to make an investigation
- 22 and report under section fifteen (15) of this Act.
- 23 e. Any other person who is required to consent under
- 24 section fourteen (14) of this Act.

25 3. A notice of the adoption hearing shall state the time,
26 place, and purpose of the hearing and shall be given according
27 to the appropriate rules of civil procedure. Proof of the
28 giving of notice shall be filed with the clerk of the court
29 prior to the adoption hearing and approved by the court prior
30 to issuance of an adoption decree under section twenty (20)
31 of this Act.

32 Sec. 19. NEW SECTION. ADOPTION HEARING.

33 1. An adoption hearing shall be conducted informally as
34 a hearing in equity. The hearing shall be reported.

35 2. Only those persons notified under section eighteen

1 (18) of this Act and their witnesses and legal counsel or
2 persons requested by the court to be present shall be admitted
3 to the court chambers while an adoption hearing is being
4 conducted. The adoption petitioner and the person to be
5 adopted shall be present at the hearing, unless the presence
6 of either is excused by the court.

7 3. Any person admitted to the hearing shall be heard and
8 allowed to present evidence upon request and according to
9 the manner in which the court conducts the hearing.

10 Sec. 20. NEW SECTION. ADOPTION DECREES.

11 1. At the conclusion of the adoption hearing, the court
12 either shall:

- 13 a. Issue a final adoption decree;
- 14 b. Issue an interlocutory adoption decree; or,
- 15 c. Dismiss the adoption petition if the requirements of
16 this Act have not been met or if it is in the best interests
17 of the person petitioned to be adopted to dismiss. Upon
18 dismissal, the court shall determine who is to be guardian
19 or custodian of a minor child, including the adoption
20 petitioner if it is in the best interest of the minor person
21 petitioned to be adopted.

22 2. An interlocutory adoption decree automatically becomes
23 a final adoption decree at a date specified by the court in
24 the interlocutory adoption decree if the date so specified
25 is not less than one hundred eighty days nor more than three
26 hundred sixty days from the date the interlocutory decree
27 is issued. However, an interlocutory adoption decree may
28 be vacated sooner than the date specified in it by the court
29 for good cause shown. Also, the court may provide in the
30 interlocutory adoption decree for further observation, investi-
31 gation, and report of the conditions of and the relationships
32 between the adoption petitioner and the person petitioned
33 to be adopted.

34 3. Except as enumerated in subsection two (2) of this
35 section, an interlocutory adoption decree shall have the same

1 legal effect as a final adoption decree. If an interlocutory
2 adoption decree is vacated under subsection two (2) of this
3 section, it shall be void from the date of issuance and the
4 rights, duties, and liabilities of all persons affected by
5 it shall, unless they have become vested, be governed
6 accordingly. Upon vacation of an interlocutory adoption
7 decree, the court shall proceed under the provisions of
8 paragraph c of subsection one (1) of this section.

9 4. A final adoption decree terminates any parental rights,
10 except those of a spouse of the adoption petitioner, existing
11 at the time of its issuance and establishes the parent-child
12 relationship between the adoption petitioner and the person
13 petitioned to be adopted. Unless otherwise specified by law,
14 such parent-child relationship shall be deemed to have been
15 created at the birth of the child. However, regardless of
16 the parent-child relationship established by a final adoption
17 decree and of the provisions of section six hundred thirty-
18 three point two hundred twenty-three (633.223) of the Code,
19 if a parent of a child dies and the child is then adopted
20 by a stepparent, the child's right of inheritance from and
21 through the deceased parent is unaffected by an interlocutory
22 or final adoption decree.

23 5. An interlocutory and a final adoption decree shall
24 be entered with the clerk of the court. Such decree shall
25 set forth any facts of the adoption petition which have been
26 proven to the satisfaction of the court and any other facts
27 considered to be relevant by the court and shall grant the
28 adoption petition. If so designated in the adoption decree,
29 the name of the child shall be changed by issuance of that
30 decree. The clerk of the court shall, within thirty days
31 of issuance, deliver one certified copy of any adoption
32 decree to the petitioner, one copy of any adoption abstract
33 to the department, and one file-marked copy of the adoption
34 decree to the state registrar of vital statistics. Upon
35 receipt of a file-marked copy of an adoption decree, the state

1 registrar shall, as soon as possible, deliver to the parents
2 named in the decree and any adult person adopted by the decree
3 a copy of the amended birth certificate. If the person adopted
4 was born outside the state, the state registrar shall forward
5 the adoption decree to the appropriate agency in the state
6 of birth. A copy of any interlocutory adoption decree vacation
7 shall be delivered in the same manner as an adoption decree
8 is delivered.

9 Sec. 21. NEW SECTION. APPEAL. An appeal from any final
10 order or decree rendered under this Act shall be taken in
11 the same manner as an appeal is taken from a final judgment
12 under the rules of civil procedure. However, a rule of civil
13 procedure provision regarding a minimum amount of value in
14 controversy shall not bar an adoption appeal as a matter of
15 right. The supreme court shall review an adoption appeal
16 de novo and shall base its decision on the consideration of
17 how the interests of the person to be adopted will best be
18 served.

19 Sec. 22. NEW SECTION. FOREIGN AND INTERNATIONAL ADOPTIONS.

20 1. A decree terminating a parent-child relationship or
21 establishing a parent-child relationship by adoption which
22 is issued pursuant to due process of law by a court of any
23 other jurisdiction, whether within or without the United
24 States, shall be recognized in this state.

25 2. The department may provide necessary assistance to
26 an eligible citizen of Iowa who desires to, in accordance
27 with the immigration laws of the United States, make an
28 international adoption.

29 3. Any rules of the department relating to placement of
30 a minor child for adoption which are more restrictive than
31 comparable rules of international agencies and laws of the
32 United States shall not be enforced by the department in an
33 international adoption.

34 Sec. 23. NEW SECTION. ADOPTION RECORD.

35 1. Any information compiled under subparagraphs four (4)

1 and five (5) of paragraph a of subsection one (1) of section
2 fifteen (15) of this Act shall be made available at any time
3 by the clerk of the court to the adopting parents and to the
4 adult adopted child.

5 2. The permanent adoption record of the court shall be
6 sealed by the clerk of court when it is complete and after
7 the time for appeal has expired. All papers and records
8 pertaining to an adoption, whether a part of the permanent
9 adoption records of the court or on file with a guardian,
10 guardian ad litem, custodian, person who placed a minor person,
11 or the department shall not be open to inspection. However,
12 the clerk of the court may open the permanent adoption record
13 of the court for the adopted person who is an adult and reveal
14 the names of the natural parents upon application to the court
15 for good cause shown if the natural parents have filed an
16 affidavit requesting such revelation. To facilitate the
17 natural parents in filing such affidavit, the person who
18 placed the child of the natural parent must reveal the court
19 in which the adoption records have been sealed.

20 3. Any person, other than the adopting parents or the
21 adopted person, who discloses information in violation of
22 the provisions of this section shall be, upon conviction,
23 guilty of a misdemeanor.

24 Sec. 24. Any termination of parental rights or adoption
25 proceedings pending on the effective date of this Act shall
26 not be affected by the provisions of this Act. Any action
27 to set aside an adoption decree which was entered prior to
28 the effective date of this Act must be commenced within one
29 year after that date or be forever barred.

30 Sec. 25. Section two hundred thirty-one point three
31 (231.3), unnumbered paragraph two (2), Code 1975, is amended
32 to read as follows:

33 The judge of the juvenile court may appoint a referee in
34 juvenile court proceedings. The referee shall be qualified
35 for his duties by training and experience and shall hold
36 office at the pleasure of the judge. The compensation of

1 the referee shall be fixed by the judge. The judge may direct
2 that any case or class of cases arising under chapter 232
3 or sections three (3) through nine (9) of this Act shall be
4 heard in the first instance by the referee in the manner
5 provided for the hearing of cases by the court.

6 Sec. 26. Section two hundred thirty-two point two (232.2),
7 subsections eight (8) and nine (9), Code 1975, is amended
8 by striking the subsections and inserting in lieu thereof
9 the following:

10 8. "Guardian" means guardian as defined in subsection
11 seven (7) of section two (2) of this Act.

12 9. "Custodian" means custodian as defined in subsection
13 eight (8) of section two (2) of this Act.

14 Sec. 27. Section two hundred thirty-two point twelve
15 (232.12), Code 1975, is amended to read as follows:

16 232.12 OTHER ISSUES ADJUDICATED. When it appears during
17 the course of any trial, hearing, or proceeding that some
18 action or remedy other than or in addition to those indicated
19 by the application or pleadings appears appropriate, the court
20 may, provided all necessary parties consent, proceed to hear
21 and determine the additional or other issues as though
22 originally properly sought and pleaded. However, if
23 termination of parental rights appears to be the appropriate
24 action or remedy, the provisions of sections three (3) through
25 nine (9) of this Act must be followed.

26 Sec. 28. Section two hundred thirty-two point twenty-seven
27 (232.27), Code 1975, is amended to read as follows:

28 232.27 HEARINGS TO COURT. Hearings on any matter shall
29 be without a jury and may be conducted in an informal manner.
30 Hearings may be continued from time to time and in the interim
31 the court may make such orders as it deems in the best
32 interests of the child. The court shall exclude the general
33 public from hearings and shall admit the news media, except
34 in those cases which in the opinion of the court the best
35 interest of the child and the public are served by a private

1 hearing. The court shall also admit those persons who in
2 the discretion of the court have a direct interest in the
3 case or in the work of the court; except that if the hearing
4 involves a child charged by information or indictment with
5 the commission of a felony, persons having a legitimate
6 interest in the proceedings, including responsible
7 representatives of public information media, shall not be
8 excluded from such hearings. The court may require the
9 presence of witnesses deemed necessary to the disposition
10 of the petition. ~~Adeoption-hearings-shall-be-conducted-in~~

11 ~~accordance-with-the-provisions-of-laws-relating-to-adeoption.~~

12 Sec. 29. Section two hundred thirty-two point twenty-nine
13 (232.29), Code 1975, is amended to read as follows:

14 232.29 COUNTY ATTORNEY TO PRESENT EVIDENCE. The county
15 attorney shall present the evidence upon request of the court
16 in all proceedings ~~except-adoptions.~~

17 Sec. 30. Section two hundred thirty-two point thirty-six
18 (232.36), Code 1975, is amended to read as follows:

19 232.36 ORDERS CONTINUE TO MAJORITY OF CHILD. All orders
20 for supervision, custody, or commitment shall be enforced
21 until the minor reaches the age of eighteen years unless
22 otherwise specified by the court. All orders shall be reviewed
23 by the court at least annually unless the court's jurisdiction
24 has been terminated. The court may make on its own motion
25 or on the motion of an interested party and after notice to
26 the parties and a hearing some other disposition of the case
27 so long as the court retains jurisdiction. However, if
28 termination of parental rights is utilized as another
29 disposition of the case, the provisions of sections three
30 (3) through nine (9) of this Act must be followed.

31 Sec. 31. Section two hundred thirty-two point fifty-one
32 (232.51), unnumbered paragraph one (1), Code 1975, is amended
33 to read as follows:

34 Whenever legal custody of a minor is transferred by the
35 court or whenever the minor is placed by the court with someone

1 other than the parents or whenever a minor is given physical
2 or mental examinations or treatment under order of the court
3 and no provision is otherwise made by law for payment for
4 the care, examination, or treatment of the minor, the costs
5 shall be charged upon the funds of the county in which the
6 proceedings are held upon certification of the judge to the
7 board of supervisors. ~~Except where the parent-child relation-~~
8 ~~ship is terminated, the~~ The court may inquire into the ability
9 of the parents to support the minor and after giving the
10 parents a reasonable opportunity to be heard may order the
11 parents to pay in the manner and to whom the court may direct,
12 such sums as will cover in whole or in part the cost of care,
13 examination, or treatment of the minor. If the parents fail
14 to pay the sum without good reason, the parents may be
15 proceeded against for contempt or the court may inform the
16 county attorney who shall proceed against the parents to
17 collect the unpaid sums or both.

18 Sec. 32. Section two hundred thirty-two point sixty-three
19 (232.63), Code 1975, is amended to read as follows:

20 232.63 WHEN JURISDICTION IS EXCLUSIVE. The juvenile court
21 shall have exclusive original jurisdiction, only, in
22 proceedings concerning any child alleged to be delinquent,
23 neglected, or dependent, and in proceedings for termination
24 of parental rights under sections ~~232.44 through 232.50~~ three
25 (3) through nine (9) of this Act, and in proceedings concerning
26 any minor alleged to have been a delinquent prior to having
27 become eighteen years of age except as otherwise provided
28 by law.

29 Sec. 33. Section two hundred thirty-five point three
30 (235.3), subsection three (3), Code 1975, is amended to read
31 as follows:

32 3. Make such rules and regulations as may be necessary
33 or advisable for the supervision of the private child-caring
34 agencies or officers thereof which the state director is
35 empowered to license, inspect and supervise, ~~which rules and~~

1 regulations-shall-provide-that-in-dealing-with-any-child,
2 any-officer,-employee-or-agency-so-dealing-shall-take-into
3 consideration-the-religious-faith-or-affiliations-of-the-child
4 or-its-parents,-and-that-in-placing-such-child-it-shall-be,
5 as-far-as-practicable,-placed-in-the-home-or-the-care-and
6 custody-of-some-person-holding-the-same-religious-faith-as
7 the-parents-of-such-child,-or-with-or-through-some-agency
8 or-institution-controlled-by-persons-of-like-religious-faith
9 with-the-parents-of-said-child.

10 Sec. 34. Section two hundred thirty-eight point twenty-
11 four (238.24), unnumbered paragraph two (2), Code 1975, is
12 amended to read as follows:

13 Nothing herein shall prohibit the state director from
14 disclosing such facts to such proper persons as may be in
15 the interest of a child cared for by such agency or in the
16 interest of the child's parents or foster parents and not
17 inimical to the child, or as may be necessary to protect the
18 interests of the child's prospective foster parents. However,
19 disclosure of adoption records shall be governed by the
20 provisions of section twenty-three (23) of this Act.

21 Sec. 35. Section two hundred thirty-eight point thirty-
22 two (238.32), subsection one (1), is amended to read as
23 follows:

24 1. Receive neglected, dependent, or delinquent children
25 who are under eighteen years of age, under commitment from
26 the juvenile court, and control and dispose of them subject
27 to the provisions of chapter 232 and of this Act.

28 Sec. 36. Sections two hundred thirty-two point forty
29 (232.40) through two hundred thirty-two point fifty (232.50),
30 inclusive, section two hundred thirty-two point sixty (232.60),
31 and sections two hundred thirty-eight point twenty-five
32 (238.25) through two hundred thirty-eight point twenty-nine
33 (238.29), inclusive, Code 1975, are repealed.

34 Sec. 37. Section six hundred point one (600.1) through
35 six hundred point ten (600.10), inclusive, Code 1975, are

1 amended by striking the sections and inserting in lieu thereof
2 sections one (1) through twenty-three (23), inclusive, of
3 this Act.

4 EXPLANATION

5 This bill completely revises the Code provisions relating
6 to termination of parental rights, releases of custody to
7 child-placing agencies, and adoptions. In particular, sections
8 232.40 through 232.50 and 238.25 through 238.29 and chapter
9 600 of the Code are subject to the bulk of this bill's
10 revision. The bill is primarily the results of the efforts
11 of a 1974 interim committee.

12 A 1972 United States Supreme Court decision recognized
13 the rights of an unmarried father to a parent-child
14 relationship. In response to that decision, this bill
15 guarantees that every parent is to receive due process notice
16 and opportunity to be heard prior to severing his relationship
17 with the child. Also, such rights must be severed or
18 terminated before a petition to adopt such child may be filed.

19 There has been some question in the past whether the Code
20 allows anyone other than a licensed child-placing agency to
21 place a child for adoption. This bill makes clear that an
22 independent placement of a child for adoption may be made
23 if made under the strict requirements under which licensed
24 child-placing agencies operate.

25 This bill carefully regulates the use of voluntary releases
26 and allows their revocation only when they were obtained
27 involuntarily by inequitable methods.

28 This bill also assures that legal responsibility for a
29 minor is clearly designated at all points before termination
30 of parental rights through issuance of an adoption decree.

31 There was some concern expressed to the interim committee
32 that adults who had previously been adopted were not receiving
33 adequate information about their biological background. This
34 bill provides a means for collecting and distributing such
35 information.

1 This bill reduces the minimum residence period a child
2 must reside with adopting parents before issuance of an
3 adoption decree from one year to six months.

4 To avoid the possibility of gray or black market this bill
5 requires the adopting parents to supply a great quantity of
6 information regarding the adoption which is to be both
7 scrutinized by the court and verified by a person appointed
8 by the court.

9 Finally, since this bill makes various changes to the
10 present law which cannot all be explained here because
11 explanations are required to be brief, it is noted that a
12 further more detailed explanation of this bill by section
13 has been prepared and is on file in the office of the
14 Legislative Service Bureau.

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