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SENATE FILE 363

By COMMITTEE ON JUDICIARY
Approved 4/22 (S 1152)

Passed Senate, Date 4-26-77 (S 1149) Passed House, Date _____

Vote: Ayes 39 Nays 0 Vote: Ayes _____ Nays _____

Approved June 29, 1977

A BILL FOR

1 An Act to make technical corrections and to clarify language
 2 in the adoption laws and the termination of parental rights
 3 laws, and to permit waiver of investigations in cases of
 4 adoptions by stepparents or relatives, to allow an investi-
 5 gator to make investigations for interstate or interagency
 6 placements, to change the time for giving notice of an
 7 adoption hearing from sixty days to twenty days before the
 8 hearing date, to eliminate the requirement for formal notice
 9 to the department and to the petitioner and the petitioner's
 10 spouse, to give the court discretion in the matter of opening
 11 records to an adult adopted person who has an adopted minor
 12 sibling, to codify provisions relating to access to adoption
 13 records which were passed by the 1976 session of the general
 14 assembly, to provide that consents to adoption obtained prior
 15 to January 1, 1977 shall be unaffected by the termination
 16 requirements which became effective on that date, to eliminate
 17 the requirement of "disinterest" on the part of persons
 18 witnessing releases of custody, and to state two new grounds
 19 for termination of parental rights.

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 2. "Investigator" means a natural person who is certified
4 or approved, by the department as being capable of conduct-
5 ing an investigation under section 600.8.

6 Sec. 2. Section six hundred point three (600.3), sub-
7 section two (2), Code 1977, is amended by striking the subsec-
8 tion and inserting in lieu thereof the following:

9 2. An adoption petition shall not be filed until a ter-
10 mination of parental rights has been accomplished except in
11 the following circumstances:

12 a. The person to be adopted is an adult.

13 b. The parent's spouse is the adoption petitioner.

14 Sec. 3. Section six hundred point five (600.5), subsec-
15 tions four (4), five (5), and ten (10), Code 1977, are amended
16 to read as follows:

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

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

27 10. When and where termination of parental rights pertain-
28 ing to the person to be adopted have has occurred, if ter-
29 mination was required under section 600.3.

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

32 a. A preplacement investigation and report of the investi-
33 gation shall be completed and the prospective adoption peti-
34 tioner approved for a placement by the person making the in-
35 vestigation prior to any agency or independent placement of

1 a minor person in the petitioner's home in anticipation of
 2 an ensuing adoption. A report of a preplacement investigation
 3 that has approved a prospective adoption petitioner for a
 4 placement shall not authorize placement of a minor person
 5 with that petitioner after one year from the date of the
 6 report's issuance. However, if the prospective adoption
 7 petitioner is a stepparent or a relative within the fourth
 8 degree of consanguinity who has assumed custody of a minor
 9 person to be adopted, a preplacement investigation of this
 10 petitioner and a report of the investigation may be completed
 11 at a time established by the court or may be waived as provided
 12 in section six (6) of this Act. ~~Also, any investigation and~~
 13 ~~report required under this subsection may be waived by the~~
 14 ~~court if the prospective adoption petitioner is a stepparent~~
 15 ~~or a relative to the person to be adopted within the fourth~~
 16 ~~degree of consanguinity.~~

17 Sec. 5. Section six hundred point eight (600.8),
 18 subsections eight (8) and ten (10), Code 1977, are amended
 19 to read as follows:

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

26 In the case of the adoption of a minor person by a person
 27 domiciled or residing in any other jurisdiction of the United
 28 States, any investigation or report required under this section
 29 which has been conducted pursuant to the standards of that
 30 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.

Sec. 6. Section six hundred point eight (600.8), Code
 1977, is amended by adding the following new subsection:

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

6 Sec. 7. Section six hundred point eleven (600.11),
7 subsection two (2), Code 1977, is amended to read as follows:

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

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

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

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

17 d c. Any person who is designated to make an investi-
18 gation and report under section 600.8.

19 e d. Any other person, other than the petitioner and the
20 spouse of the petitioning parent, who is required to consent
21 under section 600.7.

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

25 Sec. 8. Section six hundred point eleven (600.11), subsec-
26 tion three (3), Code 1977, is amended to read as follows:

27 3. A notice of the adoption hearing shall state the time,
28 place, and purpose of the hearing and shall be ~~given-accord-~~
29 ~~ing-to-the-appropriate~~ served in accordance with rule fifty-
30 six (56), subsection one (1), of the rules of civil procedure.

31 Proof of the giving of notice shall be filed with the court
32 prior to the adoption hearing ~~and-approved-by-the-court-prior~~
33 ~~to-issuance-of-an-adoption-decree-under-section-600-13.~~

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

1 Sec. 9. Section six hundred point thirteen (600.13), sub-
2 section one (1), unnumbered paragraph one (1), and subsections
3 two (2) and three (3), Code 1977, are amended to read as fol-
4 lows:

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

7 2. An interlocutory adoption decree automatically be-
8 comes a final adoption decree at a date specified by the court
9 in the interlocutory adoption decree, which date shall not
10 be less than one hundred eighty days nor more than three
11 hundred sixty days from the date the interlocutory decree
12 is issued. However, an interlocutory adoption decree may
13 be vacated ~~sooner than~~ prior to the date specified in for
14 ~~it by the court for good cause shown~~ to become final. Also,
15 the court may provide in the interlocutory adoption decree
16 for further observation, investigation, and report of the
17 conditions of and the relationships between the adoption
18 petitioner and the person petitioned to be adopted.

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

28 Sec. 10. Section six hundred point fifteen (600.15), sub-
29 section one (1), Code 1977, is amended by striking the subsec-
30 tion and inserting in lieu thereof the following:

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

35 b. A decree terminating a parent-child relationship which

1 is issued pursuant to due process of law by a court of any
2 other jurisdiction in the United States shall be recognized
3 in this state.

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

7 Sec. 11. Section six hundred point sixteen (600.16),
8 subsection one (1), paragraph b, Code 1977, is amended by
9 striking the paragraph and inserting in lieu thereof the
10 following:

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

13 Sec. 12. Section six hundred point sixteen (600.16),
14 subsection two (2), Code 1977, is amended to read as follows:

15 2. The permanent termination of parental rights record
16 of the juvenile court under chapter 600A and the permanent
17 adoption record of the court shall be sealed by the clerk
18 of the juvenile court and the clerk of court, as appropriate,
19 when they are complete and after the time for appeal has
20 expired. All papers and records pertaining to a termination
21 of parental rights under chapter 600A and to an adoption,
22 whether a part of the permanent termination and adoption
23 records of the juvenile court and of the court or on file
24 with a guardian, guardian ad litem, custodian, person who
25 placed a minor person, or the department shall not be open
26 to inspection and the identity of the natural parents of an
27 adopted person shall not be revealed. However, an agency
28 involved in placement shall contact the adopting parents or
29 the adult adopted child regarding eligibility of the adopted
30 child for benefits based on entitlement of benefits or
31 inheritance from the terminated natural parents. Also, the
32 clerk of the court shall, upon application to and order of
33 the court for good cause shown, open the permanent adoption
34 record of the court for the adopted person who is an adult
35 and reveal the names of either or both of the natural parents.

1 A natural parent may file an affidavit requesting that the
2 court reveal or not reveal the parent's name. The court shall
3 consider any such affidavit in determining whether there is
4 good cause to order opening of the records. If the adopted
5 person who applies for revelation of the natural parents'
6 name has a sibling who is a minor and who has been adopted
7 by the same parents, the court ~~shall~~ may deny such application
8 on the grounds that revelation to the applicant may also
9 indirectly and harmfully permit the same revelation to the
10 applicant's minor sibling. To facilitate the natural parents
11 in filing such affidavit, the department shall, upon request
12 of such parent, file an affidavit in the court in which the
13 adoption records have been sealed.

14 Sec. 13. Chapter six hundred (600), Code 1977, is amended
15 by adding the following new sections:

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

18 a. The records were compiled prior to January 1, 1977;

19 b. The identity of the natural parents of the adopted
20 person is concealed from the person gaining access to the
21 records; and,

22 c. The person gaining access to the records uses them
23 solely for the purposes of conducting a legitimate research
24 project or of treating a patient in a medical facility.

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

31 Sec. 14. Section six hundred A point two (600A.2), sub-
32 section seven (7), Code 1977, is amended by striking para-
33 graph b.

34 Sec. 15. Section six hundred A point two (600A.2), sub-

1 sections sixteen (16) and seventeen (17), Code 1977, are
2 amended to read as follows:

3 16. "To abandon a minor child" means to permanently relin-
4 quish or surrender, without reference to any particular person,
5 the parental rights, duties, or privileges inherent in the
6 parent-child relationship. The term includes both the inten-
7 tion to abandon and the acts by which the intention is
8 evidenced. The term does not require that the relinquishment
9 or surrender be over a ~~longer~~ any particular period of time.

10 17. "Independent placement" means placement for purposes
11 of adoption of a minor person-by-a-person, other than an
12 agency, in the home of a proposed adoptive parent ~~in antici-~~
13 pation-of-an-ensuing-adoption by a person who is not the
14 proposed adoptive parent and who is not acting on behalf of
15 the department or of a child placing agency.

16 Sec. 16. Section six hundred A point four (600A.4),
17 subsection one (1), and subsection two (2), paragraph e, Code
18 1977, are amended to read as follows:

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

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

30 Sec. 17. Section six hundred A point four (600A.4),
31 subsection two (2), paragraph h, Code 1977, is amended by
32 striking the paragraph and inserting in lieu thereof the
33 following:

34 h. Shall state the purpose of the release, shall indicate
35 that if it is not revoked it may be grounds for termination,

1 and shall fully inform the signing parent of the manner in
2 which a revocation of the release may be sought.

3 Sec. 18. Section six hundred A point four (600A.4), sub-
4 section three (3), Code 1977, is amended to read as follows:

5 3. Notwithstanding the provisions of subsection 2, an
6 agency or a person making an independent placement may assume
7 custody of a minor child upon the signature of the one living
8 parent who has possession of the minor child if the agency
9 or a person making an independent placement immediately
10 petitions the juvenile court designated in section 600A.5
11 to be appointed custodian and otherwise petitions, either
12 in the same petition or within a reasonable time in a separate
13 petition, for termination of parental rights under section
14 600A.5. Upon the custody petition, the juvenile court may
15 appoint a guardian as well as a custodian. A nonsigning
16 parent may be heard on the custody petition at the hearing
17 on termination of parental rights provided in section 600A.6.

18 Sec. 19. Section six hundred A point four (600A.4), sub-
19 section four (4), Code 1977, is amended to read as follows:

20 4. ~~A parent who signs a release of custody may petition,~~
21 ~~within the time prior to the hearing on termination of parental~~
22 ~~rights, or may request, at the hearing on termination of~~
23 ~~parental rights, the juvenile court designated in section~~
24 ~~600A.5, to order the release revoked. If, within ninety-six~~
25 ~~hours of signing the release a parent petitions to have the~~
26 ~~release revoked, the juvenile court shall order the release~~
27 ~~revoked. Otherwise, the juvenile court shall order the release~~
28 ~~revoked only upon clear and convincing evidence that good~~
29 ~~cause exists for revocation. Either a parent who has signed~~
30 a release of custody, or a nonsigning parent, may, at any
31 time prior to the entry of an order terminating parental
32 rights, request the juvenile court designated in section six
33 hundred A point five (600A.5) of the Code to order the revo-
34 cation of any release of custody previously executed by either
35 parent. If such request is by a signing parent, and is within

1 ninety-six hours of the time such parent signed a release
2 of custody, the juvenile court shall order the release revoked.
3 Otherwise, the juvenile court shall order the release or
4 releases revoked only upon clear and convincing evidence that
5 good cause exists for revocation. Good cause for revoca-
6 tion includes but is not limited to a showing that the re-
7 lease was obtained by fraud, coercion, or misrepresentation
8 of law or fact which was material to its execution. In de-
9 termining whether good cause, other than fraud, coercion or
10 misrepresentation, exists for revocation, the juvenile court
11 shall give paramount consideration to the best interests of
12 the child and due consideration to the interests of the parents
13 of the child and of any person standing in the place of the
14 parents.

15 Sec. 20. Section six hundred A point five (600A.5), sub-
16 section two (2), Code 1977, is amended to read as follows:

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

24 Sec. 21. Section six hundred A point six (600A.6), sub-
25 sections one (1), two (2), four (4), five (5), six (6) and
26 seven (7), Code 1977, are amended to read as follows:

27 1. A termination of parental rights shall, unless provided
28 otherwise in this section, be ~~effectuated~~ ordered only after
29 notice has been served on all necessary parties and these
30 parties have been given an opportunity to be heard before
31 the juvenile court. A-~~"necessary~~ "Necessary party" ~~includes~~
32 means any person whose name, residence, and domicile ~~is~~ are
33 required to be included on the petition under section 600A.5,
34 subsection 3, paragraphs "a" and "b".--~~However,--a-"necessary~~
35 ~~party"--does-not-include~~ except a natural parent who has been

1 ~~adjudicated-to-have-raped~~ convicted of having sexually abused
2 the other natural parent while not cohabiting with that parent
3 as husband and wife, thereby producing the birth of the child
4 ~~designated-in-section-600A-57-subsection-37-paragraph-"a"~~
5 who is the subject of the termination proceedings.

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-ad~~
10 ~~litem~~ conflict with the interests of the child. Such guardian
11 ad litem shall be a necessary party under subsection 1 of
12 this section.

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

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

33 5. A necessary party whose identity is known but whose
34 location or ~~last-location~~ address is unknown may be served
35 by published notice. Such notice shall be served according

1 to the rules of civil procedure relating to an original notice
2 where not inconsistent with the provisions of this section.
3 In addition to the requirements of subsection 3, such notice
4 shall include only the name of the unlocated necessary party
5 being noticed. Notice by publication shall be published once
6 a week for two consecutive weeks, the last publication to
7 be not less than seven days prior to the hearing on termination
8 of parental rights.

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

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

24 Sec. 22. Section six hundred A point seven (600A.7), sub-
25 sections one (1) and two (2), Code 1977, are amended to read
26 as follows:

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

33 2. Relevant information, including that contained in re-
34 ports, studies or examinations and testified to by interested
35 persons, may be admitted into evidence at the hearing and

1 relied upon to the extent of its probative value. When such
 2 information is so admitted, the person ~~sponsoring~~ submitting
 3 it or testifying shall be subject to both direct and cross-
 4 examination by a necessary party.

5 Sec. 23. Section six hundred A point seven (600A.7), Code
 6 1977, is amended by striking subsection three (3).

7 Sec. 24. Section six hundred A point eight (600A.8), sub-
 8 section seven (7), Code 1977, is amended to read as follows:

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

16 Sec. 25. Section six hundred A point eight (600A.8), Code
 17 1977, is amended by adding the following new subsections:

18 NEW SUBSECTION. A parent does not object to the termina-
 19 tion after having been given proper notice and the opportunity
 20 to object.

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

25 Sec. 26. Section six hundred A point nine (600A.9), Code
 26 1977, is amended to read as follows:

27 600A.9 TERMINATION FINDINGS AND ORDER--VACATION OF ORDER.

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

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

32 b. ~~The petition should not be granted at that time, but~~
 33 ~~that conditions indicating that the child is in need of~~
 34 ~~assistance exist, and an order to that effect is issued~~

35 pursuant to section 232.33, or, Find that the petition should

1 not be granted but that the child is a child in need of
2 assistance as defined in section two hundred thirty-two point
3 two (232.2), subsection thirteen (13) of the Code and that
4 an order shall be issued pursuant to section two hundred
5 thirty-two point thirty-three (232.33) of the Code; or,

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

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

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

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

23 ~~b. The guardian consents in writing to the vacation.~~

24 The juvenile court shall grant the vacation request only if
25 it is in the best interest of the child.

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

29 a. The department.

30 b. The petitioner.

31 c. The parents whose rights have been terminated if they
32 request such copies.

33 d. Any guardian, custodian, or guardian ad litem of the
34 child.

35

EXPLANATION

1 This bill makes corrective changes in the adoption laws
2 passed during the 1976 session of the General Assembly which
3 are codified as chapters 600 and 600A of the 1977 Code of
4 Iowa. The majority of the bill's sections are intended to
5 clarify or correct present code language and make no
6 substantive changes in the law.

7 Substantive changes in the bill include: An extension
8 of the waiver of investigations in cases of adoption by step
9 parents and relatives to postplacement and background in-
10 tiguations as well as to preplacement investigations; allowing
11 a certified or approved investigator to make investigations
12 for interstate or interagency placements; a change in the
13 time for giving notice of an adoption hearing from sixty to
14 twenty days before the hearing date; elimination of the
15 requirement for formal notice to the department and to the
16 petitioner and the petitioner's spouse; codification of
17 provisions relating to access to adoption records which were
18 passed by the 1976 session of the General Assembly; provision
19 that consents to adoption obtained prior to January 1, 1977
20 remain unaffected by the termination requirements which become
21 effective on that date; elimination of the requirement of
22 "disinterest" on the part of persons witnessing releases of
23 custody; and the statement of two new grounds for termination
24 of parental rights.

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SENATE FILE 363

S-3435

1 Amend Senate File 363 as follows:

2 1. Page 1, by inserting after line 13 the
3 following:

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

S-3435 FILED & ADOPTED (p 1119) BY ELIZABETH SHAW
APRIL 26, 1977

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

3 2. "Investigator" means a natural person who is certified
4 or approved by the department as being capable of conduct-
5 ing an investigation under section 600.3.

6 Sec. 2. Section six hundred point three (600.3), sub-
7 section two (2), Code 1977, is amended by striking the subsec-
8 tion and inserting in lieu thereof the following:

9 2. An adoption petition shall not be filed until a ter-
10 mination of parental rights has been accomplished except in
11 the following circumstances:

12 a. The person to be adopted is an adult.

13 b. The parent's spouse is the adoption petitioner.

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

19 Sec. 2. Section six hundred point five (600.5), subsec-
20 tions four (4), five (5), and ten (10), Code 1977, are amended
21 to read as follows:

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

27 5. The name, residence, and domicile of the petitioner,
28 if this is not required to be stated under subsection 4 of
29 this section, and the date or expected date on which the per-
30 son to be adopted, if a minor, began or ~~begins~~ will begin
31 living with the petitioner.

32 10. When and where termination of parental rights pertain-
33 ing to the person to be adopted ~~have~~ has occurred, if ter-
34 mination was required under section 600.3.

35 Sec. 3. Section six hundred point eight (600.8), subsection

1 two (2), paragraph a, Code 1977, is amended to read as follows:

2 a. A preplacement investigation and report of the investi-
 3 gation shall be completed and the prospective adoption peti-
 4 tioner approved for a placement by the person making the in-
 5 vestigation prior to any agency or independent placement of
 6 a minor person in the petitioner's home in anticipation of
 7 an ensuing adoption. A report of a preplacement investigation
 8 that has approved a prospective adoption petitioner for a
 9 placement shall not authorize placement of a minor person
 10 with that petitioner after one year from the date of the
 11 report's issuance. However, if the prospective adoption
 12 petitioner is a stepparent or a relative within the fourth
 13 degree of consanguinity who has assumed custody of a minor
 14 person to be adopted, a preplacement investigation of this
 15 petitioner and a report of the investigation may be completed
 16 at a time established by the court or may be waived as provided
 17 in section six (6) of this Act. ~~Also, any investigation and~~
 18 ~~report required under this subsection may be waived by the~~
 19 ~~court if the prospective adoption petitioner is a stepparent~~
 20 ~~or a relative to the person to be adopted within the fourth~~
 21 ~~degree of consanguinity.~~

22 Sec. 4. Section six hundred point eight (600.8),
 23 subsections eight (8) and ten (10), Code 1977, are amended
 24 to read as follows:

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

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

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

4 Sec. 5. Section six hundred point eight (600.8), Code
5 1977, is amended by adding the following new subsection:

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

11 Sec. 6. Section six hundred point eleven (600.11),
12 subsection two (2), Code 1977, is amended to read as follows:

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

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

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

21 ~~c. The department.~~

22 d c. Any person who is designated to make an investi-
23 gation and report under section 600.8.

24 e d. Any ~~other~~ person, other than the petitioner and the
25 spouse of the petitioning parent, who is required to consent
26 under section 600.7.

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

30 Sec. 7. Section six hundred point eleven (600.11), subsec-
31 tion three (3), Code 1977, is amended to read as follows:

32 3. A notice of the adoption nearing shall state the time,
33 place, and purpose of the hearing and shall be ~~given accord-~~
34 ~~ing to the appropriate~~ served in accordance with rule fifty-
35 six (56), subsection one (1), of the rules of civil procedure.

1 Proof of the giving of notice shall be filed with the court
2 prior to the adoption hearing ~~and approved by the court prior~~
3 ~~to issuance of an adoption decree under section 600.13.~~

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

6 Sec. 3. Section six hundred point thirteen (600.13), sub-
7 section one (1), unnumbered paragraph one (1), and subsections
8 two (2) and three (3), Code 1977, are amended to read as fol-
9 lows:

10 At the conclusion of the adoption hearing, the court either
11 shall:

12 2. An interlocutory adoption decree automatically be-
13 comes a final adoption decree at a date specified by the court
14 in the interlocutory adoption decree, which date shall not
15 be less than one hundred eighty days nor more than three
16 hundred sixty days from the date the interlocutory decree
17 is issued. However, an interlocutory adoption decree may
18 be vacated ~~sooner than~~ prior to the date specified ~~in for~~
19 ~~it by the court for good cause shown~~ to become final. Also,
20 the court may provide in the interlocutory adoption decree
21 for further observation, investigation, and report of the
22 conditions of and the relationships between the adoption
23 petitioner and the person petitioned to be adopted.

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

33 Sec. 9. Section six hundred point fifteen (600.15), sub-
34 section one (1), Code 1977, is amended by striking the subsec-
35 tion and inserting in lieu thereof the following:

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

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

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

12 Sec. 10. Section six hundred point sixteen (600.16),
13 subsection one (1), paragraph b, Code 1977, is amended by
14 striking the paragraph and inserting in lieu thereof the
15 following:

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

18 Sec. 11. Section six hundred point sixteen (600.16),
19 subsection two (2), Code 1977, is amended to read as follows:

20 2. The permanent termination of parental rights record
21 of the juvenile court under chapter 600A and the permanent
22 adoption record of the court shall be sealed by the clerk
23 of the juvenile court and the clerk of court, as appropriate,
24 when they are complete and after the time for appeal has
25 expired. All papers and records pertaining to a termination
26 of parental rights under chapter 600A and to an adoption,
27 whether a part of the permanent termination and adoption
28 records of the juvenile court and of the court or on file
29 with a guardian, guardian ad litem, custodian, person who
30 placed a minor person, or the department shall not be open
31 to inspection and the identity of the natural parents of an
32 adopted person shall not be revealed. However, an agency
33 involved in placement shall contact the adopting parents or
34 the adult adopted child regarding eligibility of the adopted
35 child for benefits based on entitlement of benefits or

1 inheritance from the terminated natural parents. Also, the
2 clerk of the court shall, upon application to and order of
3 the court for good cause shown, open the permanent adoption
4 record of the court for the adopted person who is an adult
5 and reveal the names of either or both of the natural parents.
6 A natural parent may file an affidavit requesting that the
7 court reveal or not reveal the parent's name. The court shall
8 consider any such affidavit in determining whether there is
9 good cause to order opening of the records. If the adopted
10 person who applies for revelation of the natural parents'
11 name has a sibling who is a minor and who has been adopted
12 by the same parents, the court ~~shall~~ may deny such application
13 on the grounds that revelation to the applicant may also
14 indirectly and harmfully permit the same revelation to the
15 applicant's minor sibling. To facilitate the natural parents
16 in filing such affidavit, the department shall, upon request
17 of such parent, file an affidavit in the court in which the
18 adoption records have been sealed.

19 Sec. 12. Chapter six hundred (600), Code 1977, is amended
20 by adding the following new sections:

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

23 a. The records were compiled prior to January 1, 1977;

24 b. The identity of the natural parents of the adopted
25 person is concealed from the person gaining access to the
26 records; and,

27 c. The person gaining access to the records uses them
28 solely for the purposes of conducting a legitimate research
29 project or of treating a patient in a medical facility.

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

1 Assembly, 1976 Session.

2 Sec. 13. Section six hundred A point two (600A.2), sub-
3 section seven (7), Code 1977, is amended by striking para-
4 graph b.

5 Sec. 14. Section six hundred A point two (600A.2), sub-
6 sections sixteen (16) and seventeen (17), Code 1977, are
7 amended to read as follows:

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

15 17. "Independent placement" means placement for purposes
16 of adoption of a minor ~~person-by-a-person, other-than-an~~
17 ~~agency,~~ in the home of a proposed adoptive parent ~~in-antici-~~
18 ~~pation-of-an-ensuing-adoption~~ by a person who is not the
19 proposed adoptive parent and who is not acting on behalf of
20 the department or of a child placing agency.

21 Sec. 15. Section six hundred A point four (600A.4),
22 subsection one (1), and subsection two (2), paragraph e, Code
23 1977, are amended to read as follows:

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

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

35 Sec. 16. Section six hundred A point four (600A.4),

1 subsection two (2), paragraph h, Code 1977, is amended by
 2 striking the paragraph and inserting in lieu thereof the
 3 following:

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

8 Sec. 17. Section six hundred A point four (600A.4), sub-
 9 section three (3), Code 1977, is amended to read as follows:

10 3. Notwithstanding the provisions of subsection 2, an
 11 agency or a person making an independent placement may assume
 12 custody of a minor child upon the signature of the one living
 13 parent who has possession of the minor child if the agency
 14 or a person making an independent placement immediately
 15 petitions the juvenile court designated in section 600A.5
 16 to be appointed custodian and otherwise petitions, either
 17 in the same petition or within a reasonable time in a separate
 18 petition, for termination of parental rights under section
 19 600A.5. Upon the custody petition, the juvenile court may
 20 appoint a guardian as well as a custodian. ~~A nonsigning~~
 21 ~~parent may be heard on the custody petition at the hearing~~
 22 ~~on termination of parental rights provided in section 600A.6.~~

23 Sec. 18. Section six hundred A point four (600A.4), sub-
 24 section four (4), Code 1977, is amended to read as follows:

25 4. ~~A parent who signs a release of custody may petition,~~
 26 ~~within the time prior to the hearing on termination of parental~~
 27 ~~rights, or may request, at the hearing on termination of~~
 28 ~~parental rights, the juvenile court designated in section~~
 29 ~~600A.5, to order the release revoked. -- If, within ninety-six~~
 30 ~~hours of signing the release a parent petitions to have the~~
 31 ~~release revoked, the juvenile court shall order the release~~
 32 ~~revoked. -- Otherwise, the juvenile court shall order the release~~
 33 ~~revoked only upon clear and convincing evidence that good~~
 34 ~~cause exists for revocation.~~ Either a parent who has signed
 35 a release of custody, or a nonsigning parent, may, at any

1 time prior to the entry of an order terminating parental
2 rights, request the juvenile court designated in section six
3 hundred A point five (600A.5) of the Code to order the revo-
4 cation of any release of custody previously executed by either
5 parent. If such request is by a signing parent, and is within
6 ninety-six hours of the time such parent signed a release
7 of custody, the juvenile court shall order the release revoked.
8 Otherwise, the juvenile court shall order the release or
9 releases revoked only upon clear and convincing evidence that
10 good cause exists for revocation. Good cause for revoca-
11 tion includes but is not limited to a showing that the re-
12 lease was obtained by fraud, coercion, or misrepresentation
13 of law or fact which was material to its execution. In de-
14 termining whether good cause, other than fraud, coercion or
15 misrepresentation, exists for revocation, the juvenile court
16 shall give paramount consideration to the best interests of
17 the child and due consideration to the interests of the parents
18 of the child and of any person standing in the place of the
19 parents.

20 Sec. 19. Section six hundred A point five (600A.5), sub-
21 section two (2), Code 1977, is amended to read as follows:

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

29 Sec. 20. Section six hundred A point six (600A.6), sub-
30 sections one (1), two (2), four (4), five (5), six (6) and
31 seven (7), Code 1977, are amended to read as follows:

32 1. A termination of parental rights shall, unless provided
33 otherwise in this section, be effectuated ordered only after
34 notice has been served on all necessary parties and these
35 parties have been given an opportunity to be heard before

1 the juvenile court. A-~~"necessary~~ "Necessary party" includes
2 means any person whose name, residence, and domicile is are
3 required to be included on the petition under section 600A.5,
4 subsection 3, paragraphs "a" and "b".--~~However, a-~~"necessary
5 party"~~-does-not-include~~ except a natural parent who has been
6 ~~adjudicated-to-have-raped~~ convicted of having sexually abused
7 the other natural parent while not cohabiting with that parent
8 as husband and wife, thereby producing the birth of the child
9 ~~designated-in-section-600A.57-subsection-37-paragraph-"a"~~
10 who is the subject of the termination proceedings.

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

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

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

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

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

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

29 Sec. 21. Section six hundred A point seven (600A.7), sub-
30 sections one (1) and two (2), Code 1977, are amended to read
31 as follows:

32 1. The hearing on termination of parental rights shall
33 be conducted in accordance to with the provisions of sec-
34 tions 232.27, 232.28, 232.30, and 232.32 and otherwise in
35 accordance with the rules of civil procedure. Such hearing

1 shall be held ~~not-less~~ no earlier than one week after the
2 child is born.

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

10 Sec. 22. Section six hundred A point seven (600A.7), Code
11 1977, is amended by striking subsection three (3).

12 Sec. 23. Section six hundred A point eight (600A.8), sub-
13 section seven (7), Code 1977, is amended to read as follows:

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

21 Sec. 24. Section six hundred A point eight (600A.8), Code
22 1977, is amended by adding the following new subsections:

23 NEW SUBSECTION. A parent does not object to the termina-
24 tion after having been given proper notice and the opportunity
25 to object.

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

30 Sec. 25. Section six hundred A point nine (600A.9), Code
31 1977, is amended to read as follows:

32 600A.9 TERMINATION FINDINGS AND ORDER--VACATION OF ORDER.

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

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

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

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

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

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

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

28 b. ~~The guardian consents in writing to the vacation.~~

29 The juvenile court shall grant the vacation request only if
30 it is in the best interest of the child.

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

34 a. The department.

35 b. The petitioner.

1 c. The parents whose rights have been terminated if they
2 request such copies.

3 d. Any guardian, custodian, or guardian ad litem of the
4 child.

5 EXPLANATION

6 This bill makes corrective changes in the adoption laws
7 passed during the 1976 session of the General Assembly which
8 are codified as chapters 600 and 600A of the 1977 Code of
9 Iowa. The majority of the bill's sections are intended to
10 clarify or correct present code language and make no
11 substantive changes in the law.

12 Substantive changes in the bill include: An extension
13 of the waiver of investigations in cases of adoption by step-
14 parents and relatives to postplacement and background inves-
15 tigation as well as to preplacement investigations; allowing
16 a certified or approved investigator to make investigations
17 for interstate or interagency placements; a change in the
18 time for giving notice of an adoption hearing from sixty to
19 twenty days before the hearing date; elimination of the
20 requirement for formal notice to the department and to the
21 petitioner and the petitioner's spouse; codification of
22 provisions relating to access to adoption records which were
23 passed by the 1976 session of the General Assembly; provision
24 that consents to adoption obtained prior to January 1, 1977
25 remain unaffected by the termination requirements which become
26 effective on that date; elimination of the requirement of
27 "disinterest" on the part of persons witnessing releases of
28 custody; and the statement of two new grounds for termination
29 of parental rights.

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SF 363
slc/26C

House Amendment to Senate File 363

S-3618

1 Amend Senate File 363 as follows:

2 1. Page 1, line 19, by striking the word and
3 figure "Sec. 2." and inserting in lieu thereof the
4 word and figure "Sec. 3."

5 2. Page 2, by inserting after line 21 the follow-
6 ing section:

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

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

14 3. Page 3, by inserting after line 3 the follow-
15 ing paragraph:

16 "Any interstate investigations or placements shall
17 follow the procedures and regulations under the inter-
18 state compact on the placement of children. Such
19 investigations and placements shall be in compliance
20 with the laws of the states involved."

21 4. Page 3, by striking lines 24 and 25 and
22 inserting in lieu thereof the words:

23 "e d. Any other person who is required to consent".

24 5. Page 3, by inserting after line 26 the following
25 words:

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

29 6. Page 4, line 4, by striking the words "of
30 notice" and inserting in lieu thereof the words "of
31 service".

32 7. Page 4, line 8, by striking the words "two
33 (2) and three (3)" and inserting in lieu thereof the
34 words "two (2), three (3) and five (5)".

35 8. Page 4, by inserting after line 32 the follow-
36 ing:

37 "5. An interlocutory or a final adoption decree
38 shall be entered with the clerk of the court. Such
39 decree shall set forth any facts of the adoption
40 petition which have been proven to the satisfaction
41 of the court and any other facts considered to be
42 relevant by the court and shall grant the adoption
43 petition. If so designated in the adoption decree,
44 the name of the adopted person shall be changed by
45 issuance of that decree. The clerk of the court
46 shall, within thirty days of issuance, deliver one
47 certified copy of any adoption decree to the
48 petitioner, one copy of any adoption ~~abstract~~ decree
49 to the department and any agency or person making
50 an independent placement who placed a minor person

S-3618
Page 2

1 for adoption, and one certification of adoption as
2 prescribed in section 144.19 to the state registrar
3 of vital statistics. Upon receipt of the
4 certification, the state registrar shall prepare a
5 new birth certificate pursuant to section 144.23 and
6 deliver to the parents named in the decree and any
7 adult person adopted by the decree a copy of the new
8 birth certificate. The parents shall pay the fee
9 prescribed in section 144.46. If the person adopted;
10 was born outside the state, the state registrar shall
11 forward the certification of adoption to the
12 appropriate agency in the state of birth. A copy
13 of any interlocutory adoption decree vacation shall
14 be delivered and another birth certificate shall be
15 prepared in the same manner as a certification of
16 adoption is delivered and the birth certificate was
17 originally prepared."

18 9. Page 10, line one, by inserting after the word
19 "court" the words "except that notice need not be
20 served on the petitioner or on any necessary party
21 who is spouse of the petitioner".

22 10. Page 11, line 16, by striking the words "or
23 unlocated" and inserting in lieu thereof the word
24 "unlocated".

25 11. Page 13, line 8, by striking the word "that"
26 and inserting in lieu thereof the words "shall issue".

27 12. Page 13, line 9, by striking the words "shall
28 be issued".

29 13. Renumbering the remaining sections of the
30 bill to conform to this amendment.

S-3618 FILED
MAY 16, 1977

RECEIVED FROM THE HOUSE

Senate concurred 5/18/77 (p. 1674)

H-4141

1 Amend Senate File 363, as amended, passed and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 21 the follow-
4 ing section:

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

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

12 2. Page 3, by inserting after line 3 the follow-
13 ing paragraph:

14 "Any interstate investigations or placements shall
15 follow the procedures and regulations under the inter-
16 state compact on the placement of children. Such
17 investigations and placements shall be in compliance
18 with the laws of the states involved."

19 3. Page 4, line 8, by striking the words "two
20 (2) and three (3)" and inserting in lieu thereof the
21 words "two (2), three (3) and five (5)".

22 4. Page 4, by inserting after line 32 the follow-
23 ing:

24 5. An interlocutory or a final adoption decree
25 shall be entered with the clerk of the court. Such
26 decree shall set forth any facts of the adoption
27 petition which have been proven to the satisfaction
28 of the court and any other facts considered to be
29 relevant by the court and shall grant the adoption
30 petition. If so designated in the adoption decree,
31 the name of the adopted person shall be changed by
32 issuance of that decree. The clerk of the court
33 shall, within thirty days of issuance, deliver one
34 certified copy of any adoption decree to the
35 petitioner, one copy of any adoption ~~abstract~~ decree
36 to the department and any agency or person making
37 an independent placement who placed a minor person
38 for adoption, and one certification of adoption as
39 prescribed in section 144.19 to the state registrar
40 of vital statistics. Upon receipt of the
41 certification, the state registrar shall prepare a
42 new birth certificate pursuant to section 144.23 and
43 deliver to the parents named in the decree and any
44 adult person adopted by the decree a copy of the new
45 birth certificate. The parents shall pay the fee
46 prescribed in section 144.46. If the person adopted
47 was born outside the state, the state registrar shall
48 forward the certification of adoption to the
49 appropriate agency in the state of birth. A copy
50 of any interlocutory adoption decree vacation shall

H-4141
Page 2

1 be delivered and another birth certificate shall be
2 prepared in the same manner as a certification of
3 adoption is delivered and the birth certificate was
4 originally prepared.

H-4141 FILED, ADOPTED BY JESSE of Polk
MAY 12, 1977 (p. 2152)

SENATE FILE 363

H-4135

1 Amend Senate File 363, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 3, by striking lines 24 and 25 and
4 inserting in lieu thereof the words:
5 "e d. Any other person who is required to consent".
6 2. Page 3, by inserting after line 26 the following
7 words:
8 "Nothing in this subsection shall require the
9 petitioner to give notice to self or to petitioner's
10 spouse."
11 3. Page 4, line 4, by striking the words "of
12 notice" and inserting in lieu thereof the words "of
13 service".
14 4. Page 10, line one, by inserting after the word
15 "court" the words "except that notice need not be
16 served on the petitioner or on any necessary party
17 who is spouse of the petitioner".
18 5. Page 11, line 16, by striking the words "or
19 unlocated".
20 6. Page 13, line 8, by striking the word "that"
21 and inserting in lieu thereof the words "shall issue".
22 7. Page 13, line 9, by striking the words "shall
23 be issued".

H-4135 FILED, ADOPTED BY LIPSKY of Linn
MAY 12, 1977 (p. 2123)

SENATE FILE 363

H-4133

1 Amend Senate File 363, as amended, passed and
2 reprinted by the Senate, as follows:
3 1. Page 1, line 19, by striking the word and
4 figure "Sec. 2." and inserting in lieu thereof the
5 word and figure "Sec. 3."
6 2. By renumbering the remaining sections of the
7 bill to conform to this amendment.

H-4133 FILED, ADOPTED BY LIPSKY of Linn
MAY 12, 1977 (p. 2121)

SENATE FILE 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 INTER-AGENCY 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:

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

e. 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 600.43.

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), subsection 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-adoption 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 te-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-5,-subsection-3,-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 er-guardian ad-litem or if the interests of the guardian er-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 ~~sponsoring~~ 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.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 363, Sixty-seventh General Assembly.

STEVEN C. CROSS
Secretary of the Senate

Approved June 29, 1977

ROBERT D. RAY
Governor