

Amended 3/25/85 Dr. Jones 4/12 (A 1312)

Senate File 541

HUMAN RESOURCES: Hannon, Chair; Wells and Taylor

SENATE FILE 541

BY COMMITTEE ON HUMAN RESOURCES

Approved 2/3/82 (by 9-90)

FILED MAR 22 1985

Passed Senate, Date _____ Passed House, Date _____

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

Approved _____

A BILL FOR

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

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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87-541

1 Section 1. Section 144.1, Code 1985, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 14. "Adoption record" means adoption
4 record as defined in section 600.2.

5 NEW SUBSECTION. 15. "Principal party" means principal
6 party as defined in section 600.2.

7 Sec. 2. Section 144.24, Code 1985, is amended to read as
8 follows:

9 144.24 SUBSTITUTING NEW FOR ORIGINAL BIRTH CERTIFICATES --
10 INSPECTION OF ORIGINAL CERTIFICATES.

11 1. When if a new certificate of birth is established, the
12 actual place and date of birth shall be shown on the
13 certificate. A new certificate of birth prepared pursuant to
14 an adoption shall state on its face that the certificate was
15 prepared pursuant to an adoption. The certificate shall be
16 substituted for the original certificate of birth.
17 Hereafter, and the original certificate, adoption records,
18 and the evidence of adoption, paternity, legitimation, or sex
19 change shall is not be subject to inspection, except under
20 order of a court of competent jurisdiction or as provided by
21 regulation rules for statistical or administrative purposes,
22 only as limited under subsection 2. However, the

23 2. The state registrar shall allow inspection of original
24 birth certificates as follows:

25 a. For adoptions finalized before April 26, 1945, a
26 principal party to an adoption and that party's lineal
27 ascendants and descendants may inspect the adoptee's original
28 certificate of birth and any of the adoptee's adoption records
29 held by the department.

30 b. For adoptions finalized on or after April 26, 1945 but
31 before the effective date of this Act, the original
32 certificate of birth and any adoption records held by the
33 department shall be sealed but may be inspected by a state
34 agency for statistical or administrative purposes only or may
35 be opened for inspection pursuant to section 600.30,

1 subsection 2.

2 c. For adoptions finalized on or after the effective date
3 of this Act, the original certificate of birth and any
4 adoption records held by the department shall be sealed but
5 may be inspected by a state agency for statistical or
6 administrative purposes only, may be opened for inspection
7 pursuant to section 600.30, subsection 2, or may be inspected
8 by a principal party to an adoption and that principal party's
9 lineal ascendants and descendants when the adoptee reaches
10 twenty-one years of age.

11 d. For all adoptions, a birth parent may inspect at any
12 time the adoptee's original certificate of birth.

13 3. Upon request the state registrar shall issue a
14 certified copy of an original certificate of birth to a person
15 authorized to inspect the certificate under subsection 2.

16 4. The state registrar shall, upon the application of an
17 adult adopted-person adoptee, an adoptive parent, a guardian
18 of a minor adoptee, or a birth parent, or the legal
19 representative of either the adult adopted-person-or-the
20 adoptee, adoptive parent, or birth parent, inspect the
21 original certificate and the evidence-of adoption records and
22 reveal to the applicant the name and address of the court
23 which issued the adoption decree. Upon receipt-of-notice-of
24 annulment-of-adoption, the original certificate of birth shall
25 be restored to its place in the files and the new certificate
26 and evidence shall not be subject to inspection except upon
27 order of the district court.

28 Sec. 3. Section 600.2, subsection 1, Code 1985, is amended
29 to read as follows:

30 1. "Child", "parent", "parent-child relationship",
31 "termination of parental rights", "natural birth parent",
32 "stepparent", "guardian", "custodian", "guardian ad litem",
33 "minor", "adult", "agency", "department", "court", "juvenile
34 court", "independent placement", "independent child-placing
35 person" mean the same as defined in section 600A.2.

1 Sec. 4. Section 600.2, Code 1985, is amended by adding the
2 following new subsections:

3 NEW SUBSECTION. 3. "Adoption record" means any or all of
4 the following:

5 a. All legal documents relating to the termination of
6 parental rights, including but not limited to a voluntary
7 surrender of parental rights, a petition for termination of
8 parental rights, and an order for termination of parental
9 rights.

10 b. All legal documents relating to an adoption, including
11 but not limited to an adoption petition, attachments to an
12 adoption petition as specified in section 600.6, placement and
13 background information investigation reports, an open adoption
14 agreement, an adoption decree, and a certificate of adoption
15 prepared pursuant to section 144.19.

16 c. The names of the adoptee before and after adoption.

17 d. The names and addresses of birth parents and birth
18 relatives at birth and adoption and of adoptive parents at
19 adoption.

20 e. More recent names and addresses of principal parties to
21 the adoption, and updating information and correspondence
22 provided by principal parties for sharing with other principal
23 parties.

24 f. A description of the circumstances surrounding a
25 voluntary surrender of parental rights and the termination of
26 parental rights.

27 g. Information regarding the national or cultural heritage
28 of principal parties and their relatives.

29 h. Information specified in section 600.16B, subsection 1.

30 NEW SUBSECTION. 4. "Principal party" means an adoptee, a
31 birth parent, an adoptive parent, or a sibling of an adoptee.

32 NEW SUBSECTION. 5. "Sibling" means one of two or more
33 persons having at least one common birth parent.

34 Sec. 5. Section 600.5, Code 1985, is amended by adding the
35 following new subsection after subsection 6 and renumbering

1 the following subsections:

2 NEW SUBSECTION. 7. The name and residence of the agency
3 or the name, residence, and domicile of the independent child-
4 placing person.

5 Sec. 6. Section 600.6, subsection 4, Code 1985, is amended
6 by striking the subsection and inserting in lieu thereof the
7 following new subsections:

8 NEW SUBSECTION. 4. A copy of the preplacement investi-
9 gation report prepared pursuant to section 600.8, attached to
10 the petition prior to the holding of the adoption hearing.

11 NEW SUBSECTION. 5. Copies of the postplacement in-
12 vestigation report and the background information investiga-
13 tion report prepared pursuant to section 600.8, attached to
14 the petition prior to the holding of the adoption hearing.

15 Sec. 7. Section 600.8, subsection 1, paragraph c, Code
16 1985, is amended by adding the following new subparagraph:

17 NEW SUBPARAGRAPH. (3) What is the other nonidentifying
18 information regarding a birth parent or birth relative which
19 that person has requested to have included in the report?

20 Sec. 8. Section 600.9, Code 1985, is amended by striking
21 the section and inserting in lieu thereof the following:

22 600.9 REPORT OF EXPENDITURES -- LIMITATION -- PENALTY.

23 1. An adoption petitioner of a minor person shall file
24 with the court, prior to the adoption hearing, a full
25 accounting of all disbursements of any thing of value paid or
26 agreed to be paid by or on behalf of the petitioner in
27 connection with the petitioned adoption. This accounting
28 shall be made by a report prescribed by the court. The report
29 shall be signed and verified by the petitioner and shall be
30 itemized in detail, showing the services relating to the
31 adoption or to the placement of the minor person for adoption
32 which were received by the petitioner, by a birth parent of
33 the minor person, by the minor person, or by any other person
34 for whom payment was made by or on behalf of the petitioner.
35 The report shall include the names and addresses of each

1 attorney, physician, hospital, agency, or other person who
2 received any funds in connection with the adoption or
3 placement of the minor person for adoption or who participated
4 in any way in the handling of such funds, either directly or
5 indirectly, and the dates and amounts of each payment to each
6 such person. Proof of payment to each such person shall be
7 attached. This subsection does not apply in a stepparent
8 adoption.

9 2. A birth parent shall not receive any thing of value,
10 from any person connected with the adoption, as a result of
11 the birth parent's child or former child being placed with and
12 adopted by another person, unless that thing of value relates
13 to one of the following:

14 a. Medical care received by the mother or minor person
15 during the pregnancy or delivery of the minor person.

16 b. Professional counseling services received by the birth
17 parents during the pregnancy.

18 c. Legal fees directly incurred in connection with the
19 adoption or placement for adoption of the minor person.

20 If a birth parent receives any prohibited thing of value or
21 if a person connected with the adoption offers to pay or give
22 or pays or gives any prohibited thing of value the parent or
23 person is subject to punishment pursuant to section 726.8.

24 3. Any person assisting in any way with the placement for
25 adoption or adoption of a minor person shall not charge or
26 receive a fee which is more than usual, necessary, and
27 commensurate with the services provided. If a person charges
28 a prohibited fee under this subsection, the person is, upon
29 conviction, guilty of a simple misdemeanor, and if the person
30 collects a prohibited fee, the person shall return the
31 prohibited fee to the person paying the fee.

32 Sec. 9. Section 600.11, subsection 2, unnumbered paragraph
33 2, Code 1985, is amended to read as follows:

34 ~~Nothing-in-this~~ This subsection ~~shall~~ does not require the
35 petitioner to give notice to self or to petitioner's spouse.

1 A The clerk of the district court shall mail a duplicate copy
2 of the petition and its attachments shall-be-mailed to the
3 department by-the-clerk-of-court at the time the petition is
4 filed. If an investigation report designated in section
5 600.8, subsection 4 or 5 is not complete at the time of the
6 mailing of the petition and its attachments under this
7 subsection, upon receipt of the report and at least twenty
8 days before the adoption hearing the clerk of the district
9 court shall mail the report to the department.

10 Sec. 10. Section 600.13, subsection 5, Code 1985, is
11 amended to read as follows:

12 5. An interlocutory or a final adoption decree shall be
13 entered with the clerk of the district court. ~~Such~~ The decree
14 shall set forth any facts of the adoption petition which have
15 been proven to the satisfaction of the court and any other
16 facts considered to be relevant by the court and shall grant
17 the adoption petition. If so designated in the adoption
18 decree, the name of the adopted person shall be changed by
19 issuance of that decree. The clerk of the district court
20 shall, within thirty days of issuance, deliver one certified
21 copy of any adoption decree to the petitioner, one copy of any
22 adoption decree to the department and any agency or person
23 ~~making-an~~ independent placement child-placing person who
24 placed a minor person for adoption, and one certification of
25 adoption as prescribed in section 144.19 to the state
26 registrar of vital statistics. Upon receipt of the
27 certification, the state registrar shall prepare a new birth
28 certificate pursuant to section 144.23 and deliver to the
29 parents named in the decree and any adult person adopted by
30 the decree a copy of the new birth certificate. The parents
31 shall pay the fee prescribed in section 144.46. If the person
32 adopted was born outside the state, the state registrar shall
33 forward the certification of adoption to the appropriate
34 agency in the state or foreign nation of birth. A copy of any
35 interlocutory adoption decree vacation shall be delivered and

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

4 Sec. 11. NEW SECTION. 600.16 SEPARATION OF SIBLINGS.

5 An agency or independent child-placing person shall place
6 siblings for adoption with the same prospective adoptive
7 parents whenever possible. If siblings are placed for
8 adoption with different prospective adoptive parents, each
9 agency or independent child-placing person placing one of the
10 siblings shall provide the name and address of the sibling and
11 the sibling's adoptive parents to the adoptive parents of the
12 other sibling and shall encourage physical contact between the
13 siblings.

14 Sec. 12. NEW SECTION. 600.16A OPEN ADOPTIONS.

15 An agency or independent child-placing person may arrange
16 an open adoption where the adoptive and birth parents agree to
17 direct or indirect communication, the exchange of identities,
18 sibling contact, personal contact, or other arrangements. An
19 agency or investigator shall assist the adoptive and birth
20 parents in developing the agreement. The terms of the open
21 adoption agreement shall be specified in writing and shall be
22 signed by the adoptive and birth parents. The agency or
23 investigator shall file the open adoption agreement with the
24 department and the agreement is subject to inspection under
25 section 600.30. An agency or independent child-placing person
26 disclosing information pursuant to an open adoption agreement
27 entered into pursuant to this section is not in violation of
28 section 600.30, subsection 4.

29 Sec. 13. NEW SECTION. 600.16B POSTPLACEMENT SERVICES.

30 1. An agency, independent child-placing person, in-
31 vestigator, or a clerk of the district court shall provide the
32 following information in the person's possession to a
33 principal party upon request at any time:

34 a. Background information compiled pursuant to section
35 600.8, subsection 1, paragraph "c", subparagraphs (1) and (2)

1 or similar medical or developmental information compiled at
2 any time.

3 b. Other nonidentifying information concerning a principal
4 party, including but not limited to the developmental progress
5 of an adoptee's genetic disorder, information on the status of
6 adoption proceedings, and information about the adoptive
7 family.

8 c. Photographs or letters provided by a principal party,
9 other than a minor adoptee, who consents to their release to
10 other principal parties other than minor adoptees.

11 d. Any information concerning an adult adoptee released by
12 the adult adoptee pursuant to a filed affidavit of consent to
13 release of the information, to be provided to a birth parent.

14 e. Any information concerning a birth parent released by
15 the birth parent pursuant to a filed affidavit of consent to
16 release of the information, to be provided to an adult
17 adoptee.

18 2. An agency or investigator shall provide the following
19 services upon request:

20 a. Information or referral services concerning public and
21 private assistance and subsidies for parents of handicapped
22 children.

23 b. Referral to counseling or counseling for principal
24 parties, including but not limited to counseling relating to
25 genetic disorders and other adoption related issues.

26 3. An agency or person providing information or services
27 may charge reasonable fees on a sliding scale to cover the
28 cost of providing such information or services. The
29 department shall determine standards for the fees.

30 4. An agency or independent child-placing person involved
31 in a placement for adoption or the department shall make every
32 effort to contact the adoptive parents of a minor adoptee or
33 adult adoptee regarding the adoptee's eligibility for benefit
34 entitlements or inheritance from birth parents.

35 Sec. 14. NEW SECTION. 600.16C RESUMPTION OF THE PARENT-

1 CHILD RELATIONSHIP.

2 1. If a child has not been adopted within three years of a
3 voluntary surrender and termination of parental rights, the
4 agency or independent child-placing person responsible for
5 placing the child shall notify the birth parents that the
6 child has not been adopted and that a birth parent may request
7 an investigation of the birth parent's ability to resume the
8 parent-child relationship.

9 2. If a child has been placed for adoption following a
10 voluntary surrender and termination of parental rights and the
11 placement does not result in adoption, the agency or
12 independent child-placing person responsible for placing the
13 child shall notify the birth parents that the placement has
14 not resulted in the adoption of the child and that a birth
15 parent may request an investigation of the birth parent's
16 ability to resume the parent-child relationship.

17 3. If a child has been adopted following a voluntary
18 surrender and termination of parental rights, and a petition
19 for termination of the adoptive parents' parental rights has
20 been filed, the agency or independent child-placing person
21 responsible for the second placement of the child for adoption
22 shall notify the birth parents of the pending petition and
23 that a birth parent may request an investigation of the birth
24 parent's ability to resume the parent-child relationship.

25 4. An agency or independent child-placing person required
26 to notify a birth parent under subsection 1, 2, or 3 shall
27 make every effort to do so, unless the birth parent indicated
28 in writing, at the time of voluntarily surrendering parental
29 rights or at any other time, that the birth parent did not
30 want to be contacted in such a circumstance and the birth
31 parent has not revoked the writing. An agency, investigator,
32 or independent child-placing person, involved in the placement
33 or first adoption of the child, who has knowledge of identity
34 or residence of the birth parents shall assist in the
35 notification of the birth parents.

1 5. After notice and upon the request of a birth parent,
2 the agency or independent child-placing person responsible for
3 placing the child, shall cause a preplacement investigation of
4 the birth parent's ability to resume the parent-child
5 relationship to be completed and a report of the investigation
6 to be sent to the court.

7 Sec. 15. Section 600.22, Code 1985, is amended to read as
8 follows:

9 600.22 RULES.

10 The department of human services shall adopt rules in
11 accordance with ~~the provisions of~~ chapter 17A, which are
12 necessary for the administration of sections 600.17 to 600.21,
13 sections 600.30 through 600.32, and section 600.35.

14 Sec. 16. NEW SECTION. 600.30 ADOPTION RECORDS -- IN-
15 SPECTION -- DISCLOSURE.

16 1. An agency, independent child-placing person, in-
17 vestigator, clerk of the district court, custodian, guardian,
18 guardian ad litem, or other person shall allow inspection of
19 adoption records in the person's possession as follows:

20 a. For adoptions finalized before April 26, 1945, a
21 principal party to an adoption and that party's lineal
22 ascendants and descendants may inspect any of the adoptee's
23 adoption records.

24 b. For adoptions finalized on or after April 26, 1945 but
25 before the effective date of this Act, the adoption records
26 shall be sealed but may be inspected by a state agency for
27 statistical or administrative purposes only or may be opened
28 for inspection pursuant to subsection 2.

29 c. For adoptions finalized on or after the effective date
30 of this Act, adoption records shall be sealed but may be in-
31 spected by a state agency for statistical or administrative
32 purposes only, may be opened for inspection pursuant to
33 subsection 2, or may be inspected by a principal party and
34 that principal party's lineal ascendants and descendants when
35 the adoptee reaches twenty-one years of age.

1 A person in possession of information which is included in
2 the definition of an adoption record under section 600.2,
3 subsection 3 and which relates to an adoption finalized at any
4 time, shall allow inspection of the information as an adoption
5 record under this subsection even if the person did not act as
6 an agency, independent child-placing person, custodian,
7 guardian, or guardian ad litem at the time of the adoption.
8 The person shall indefinitely preserve any such information in
9 the person's possession or shall transfer the information to
10 the department. A person who fails to allow inspection or
11 fails to preserve or transfer such information as required
12 under this paragraph is, upon conviction, guilty of a simple
13 misdemeanor and may be restrained from violating this
14 paragraph by temporary or permanent injunction instituted by
15 the state, a political subdivision, or an interested person.

16 2. A principal party to an adoption where the adoptee is
17 twenty-one years of age or older, an adoptive parent or a
18 guardian of a minor adoptee, or an adult adoptee may request
19 the department to notify in a personal and confidential manner
20 a principal party to the adoption in order to determine if the
21 other principal party would agree voluntarily to the
22 disclosure of information relating to either of the principal
23 parties or to a minor sibling of the adoptee. The department
24 may inspect the original certificate of birth and adoption
25 records to identify the requesting principal party and the
26 other principal party to be notified. Within four months of
27 the receipt of the request the department shall make complete
28 and reasonable efforts to notify the other principal party of
29 the request and shall determine whether the other principal
30 party agrees voluntarily to the disclosure of information
31 relating to either of the principal parties or to a minor
32 sibling of the adoptee. The notification shall be
33 accomplished by personal and confidential contact by a
34 departmental employee or another person approved and
35 designated by the department as the department's agent for the

1 purpose of making the contact. The department may charge the
2 requesting principal party a reasonable fee for the cost of a
3 search and notification. If contact is made, the departmental
4 employee or agent shall file an affidavit of notification with
5 the department certifying that the other principal party was
6 given the following information in writing:

7 a. The date and nature of the request for disclosure of
8 information.

9 b. The right of the other principal party to file with the
10 department at any time an affidavit of consent to the request
11 for disclosure of information.

12 c. The right of the other principal party to file with the
13 department, within one hundred twenty days of the receipt of
14 the notification, an affidavit of refusal to consent to the
15 request for disclosure of information.

16 d. The effect of a failure to file either an affidavit of
17 consent or refusal to consent.

18 e. The right of the other principal party to request the
19 department to determine if a principal party would agree
20 voluntarily to the disclosure of information and to petition
21 the court for disclosure if the principal party cannot be
22 notified or refuses to consent to disclosure.

23 If the other principal party has filed or files an
24 unrevoked affidavit of consent with an agency, independent
25 child-placing person, investigator, or a clerk of the district
26 court, the department shall disclose the requested information
27 to the requesting principal party in accordance with the
28 affidavit of consent. If the other principal party is
29 deceased, the department shall disclose the requested
30 information to the requesting principal party. If the other
31 principal party has filed or files a timely unrevoked
32 affidavit of refusal to consent with the department, the
33 department shall notify the requesting principal party of the
34 refusal but shall not disclose any information to the
35 requesting principal party, unless ordered to do so by the

1 court.

2 If within four months of the receipt of the request the
3 department is unable to notify the other principal party and
4 the other principal party has not properly filed an unrevoked
5 affidavit of consent or refusal to consent, or if the other
6 principal party has filed a timely unrevoked affidavit of
7 refusal to consent with the department, the requesting
8 principal party may petition an appropriate court for the
9 disclosure of the requested information.

10 The court shall notify a principal party of the filing of
11 the petition if that principal party's identity would be
12 revealed by the disclosure of the requested information. The
13 notice shall state the purpose of the petition and inform the
14 principal party of the sixty-day period in which an objection
15 to the petition can be filed with the court. A principal
16 party whose location or address is known shall be served with
17 original notice in accordance with rule of civil procedure
18 56.1 or by restricted certified mail. A principal party whose
19 location and address is unknown shall be served with original
20 notice by publication at least once a week for two consecutive
21 weeks in a newspaper of general circulation in the county
22 where the adoption occurred or in the last known county of
23 residence of the principal party, whichever is determined to
24 be the most effective means of notification. The clerk of the
25 district court shall include in the report of a published
26 notice the methods used to locate and serve a principal party.
27 If an objection is not filed within sixty days of receipt of
28 the original notice or last publication, or if the principal
29 party is deceased, the court shall grant the petition and
30 order the disclosure of the requested information. If an
31 objection is filed by the principal party, the court shall
32 grant the principal party an ex parte hearing within one
33 hundred eighty days of the filing of the objection. The court
34 shall grant the petition for disclosure of the requested
35 information, unless the court determines that the principal

1 party filing the objection has met the burden of proving by
2 clear and convincing evidence that disclosure of the informa-
3 tion will cause severe and irreparable harm to the objecting
4 principal party. If the court determines that the objecting
5 principal party has met the burden of proving severe and
6 irreparable harm, the court shall grant the requesting
7 principal party an ex parte hearing. After the hearing, the
8 court shall grant the petition for disclosure of the requested
9 information, unless the court determines by clear and
10 convincing evidence, after weighing the evidence submitted by
11 both the requesting and objecting principal parties, that
12 nondisclosure will be of greater benefit than disclosure.

13 3. The juvenile court or court may, upon competent medical
14 evidence, allow inspection of adoption records if inspection
15 is shown to be necessary to save the life of or prevent
16 irreparable physical harm to an adoptee or birth parent or the
17 adoptee's or birth parent's offspring. The juvenile court or
18 court shall make every reasonable effort to prevent the
19 revelation of the identity of the birth parents to the adoptee
20 or of the adoptee to the birth parents under this subsection.
21 The juvenile court or court may, however, permit revelation of
22 the identity of the adoptee or birth parents to medical
23 personnel attending the adoptee or birth parent or the
24 adoptee's or birth parent's offspring. The medical personnel
25 shall make every reasonable effort to prevent the revelation
26 of the identity of the birth parents to the adoptee or of the
27 adoptee to the birth parents.

28 4. A person, other than a principal party, who discloses
29 information in violation of this section or section 600.16A
30 is, upon conviction, guilty of a simple misdemeanor.

31 5. The department may allow inspection of adoption records
32 held by the department or an agency if the person inspecting
33 the adoption records uses them solely for the purpose of
34 conducting a legitimate research project or of treating a
35 patient in a medical facility, and if the identities of

1 principal parties are concealed from the person inspecting the
2 adoption records, unless a principal party consents in writing
3 to disclosure of that principal party's identity.

4 6. The department shall allow inspection of adoption
5 records held by the department or an agency if the department
6 receives a subpoena for the records issued by a county
7 attorney or the attorney general.

8 Sec. 17. NEW SECTION. 600.31 REPORTS OF ADOPTIONS --
9 RECORDS.

10 1. An agency or independent child-placing person shall
11 report all adoptions finalized within the state to the
12 department. A report shall specify the name and address of
13 the agency or independent child-placing person, the birth and
14 adoptive names of the adoptee, the dates of birth and
15 adoption, the names of the birth and adoptive parents,
16 identifying information related to siblings of the adoptee,
17 and the court which finalized the adoption. A report shall
18 contain a copy of the accounting report required by section
19 600.9, subsection 1. The department shall allow inspection of
20 the reports pursuant to a subpoena issued by a county attorney
21 or the attorney general.

22 2. An agency, independent child-placing person, or
23 investigator who ceases to place children for adoption or to
24 investigate such placements shall submit all adoption records
25 in the agency's, person's, or investigator's possession to the
26 department.

27 3. An agency, independent child-placing person, or
28 investigator who violates this section is, upon conviction,
29 guilty of a simple misdemeanor and may be restrained from
30 violating this section by temporary or permanent injunction
31 instituted by the state, a political subdivision, or an
32 interested person.

33 Sec. 18. NEW SECTION. 600.32 ADOPTION EXCHANGE.

34 The department shall maintain a list of hard-to-place
35 children who are available for adoption and a list of persons

1 who are willing to adopt hard-to-place children and who have
2 been approved by an agency or investigator as prospective
3 adoptive parents based on preplacement investigations. An
4 agency or independent child-placing person shall forward to
5 the department the name of and other identifying information
6 regarding a child who is not placed for adoption within thirty
7 days of termination of parental rights. The department shall
8 enter the name of the child on the list of hard-to-place
9 children. The department shall adopt rules specifying
10 procedures and forms for entering the names of hard-to-place
11 children and persons willing to adopt such children on the
12 lists maintained by the department.

13 Sec. 19. NEW SECTION. 600.35 REUNION REGISTRY ES-
14 TABLISHED.

15 1. The department shall establish and maintain an adoption
16 reunion registry listing the names of persons who have
17 consented to the release of identifying information regarding
18 themselves, which is contained in a sealed certificate under
19 section 144.24, to other specified persons under confidential
20 circumstances. The following persons related to the same
21 adoption may consent to the release of identifying information
22 and may receive identifying information:

- 23 a. Adult adoptees.
- 24 b. Birth parents.
- 25 c. Siblings of adoptees.
- 26 d. Adoptive parents of minor adoptees.
- 27 e. Minor adoptees with the written consent of the adoptive
28 parents.
- 29 f. Lineal ascendants or descendants of persons listed in
30 paragraphs "a" through "e".

31 2. A person shall file a consent in writing with the
32 department. The person may revoke the consent at any time by
33 notifying the department in writing of the revocation. A
34 consent shall specify the persons listed in subsection 1,
35 paragraphs "a" through "f", to whom the department may release

1 identifying information. Upon receipt of a consent the
2 department may inspect the original certificate of birth and
3 adoption records to verify the identity of the person filing
4 the consent. The department may request a person filing a
5 consent to provide information necessary to accurately
6 identify the requestor and any person listed in subsection 1,
7 paragraphs "a" through "f". The department may charge a fee
8 established by rule for filing a consent in the registry
9 sufficient to cover the costs of registry services. If the
10 department receives consents from any two persons listed under
11 subsection 1, paragraphs "a" through "f", the department shall
12 release to each person the name, address, and any other
13 information provided by the other consenting person.

14 Sec. 20. Section 600A.2, subsection 5, Code 1985, is
15 amended to read as follows:

16 5. "~~Natural~~ Birth parent" means a parent who has been a
17 biological party to the procreation of the child.

18 Sec. 21. Section 600A.2, subsection 17, Code 1985, is
19 amended to read as follows:

20 17. "Independent placement" means placement for purposes
21 of adoption of a minor in the home of a proposed prospective
22 adoptive parent by a person who is not the proposed
23 prospective adoptive parent or birth parent and who is not
24 acting on behalf of the department or of-a-child-placing an
25 agency.

26 Sec. 22. Section 600A.2, Code 1985, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 18. "Independent child-placing person"
29 means the person who arranges an independent placement or
30 serves as an intermediary in an independent placement.

31 Sec. 23. NEW SECTION. 600A.3A INFORMATION UPON VOLUNTARY
32 SURRENDER OF PARENTAL RIGHTS.

33 1. The department shall make a uniform written statement
34 available to agencies, independent child-placing persons, and
35 any other persons offering or providing a service or

1 counseling relating to the voluntary surrender of parental
2 rights. The statement shall inform parents and prospective
3 parents of the alternatives, services, and assistance
4 available to parents considering a voluntary surrender of
5 parental rights and of the possible consequences and effects
6 of the alternatives, services, and assistance on the parents
7 and the child. An agency, independent child-placing person,
8 or any other person offering or providing such a service or
9 counseling shall obtain the uniform written statement from the
10 department and provide the statement to parents considering a
11 voluntary surrender of parental rights but may supplement the
12 statement with other information. A parent accepting the
13 statement shall sign the statement which the agency,
14 independent child-placing person, or person shall file with
15 the department for the purpose of meeting the requirements of
16 section 600A.4, subsection 2, paragraph "j".

17 2. An agency, independent child-placing person, or any
18 other person who violates this section may be restrained from
19 violating this section by temporary or permanent injunction
20 instituted by the state, a political subdivision, or an
21 interested person.

22 Sec. 24. Section 600A.4, Code 1985, is amended to read as
23 follows:

24 600A.4 ~~RELATIONSHIP UNALTERED -- RELEASE-OF-CUSTODY---~~
25 ~~VOLUNTARINESS-OF-RELEASE~~ VOLUNTARY SURRENDER OF PARENTAL
26 RIGHTS.

27 1. A parent shall not permanently alter the parent-child
28 relationship, except as ordered by a juvenile court or court.
29 However, custody of a minor child may be assumed by a
30 stepparent or a relative of that child within the fourth
31 degree of consanguinity or transferred by an acceptance of a
32 ~~release-of-custody~~ voluntary surrender of parental rights. A
33 person who assumes custody or an agency which or independent
34 child-placing person who accepts a release-of-custody
35 voluntary surrender of parental rights under this section

1 becomes, upon assumption or acceptance, the custodian of the
2 minor child.

3 2. A release-of-custody voluntary surrender of parental
4 rights:

5 a. Shall be accepted only by an agency or ~~a-person-making~~
6 an independent placement child-placing person.

7 b. Shall not be accepted by a person who in any way
8 intends to adopt the child who is the subject of the release
9 voluntary surrender of parental rights.

10 c. Shall be in writing.

11 d. Shall be signed, ~~not-less~~ no earlier than seventy-two
12 one hundred twenty hours after the birth of the child ~~to-be~~
13 released, by all living parents.

14 e. Shall be witnessed by two persons familiar with the
15 parent-child relationship.

16 f. Shall name the person who is accepting the release
17 voluntary surrender of parental rights.

18 g. Shall be followed, within a reasonable time, by the
19 filing of a petition for termination of parental rights under
20 section 600A.5.

21 h. Shall state ~~the-purpose-of-the-release, shall indicate~~
22 ~~that-if-it-is-not-revoked-it-may-be-grounds-for-termination,~~
23 that the voluntary surrender of parental rights constitutes
24 consent to the termination of parental rights, that upon
25 signing the voluntary surrender a petition for termination of
26 parental rights will be filed, and that parental rights may be
27 terminated based only on the voluntary surrender unless the
28 voluntary surrender is revoked prior to the granting of the
29 order terminating parental rights and shall fully inform the
30 signing parent of the manner in which a revocation of the
31 release voluntary surrender of parental rights may be sought.

32 i. Shall state that the voluntary surrender of parental
33 rights cannot be signed earlier than one hundred twenty hours
34 after the birth of the child.

35 j. Shall be accompanied by the signed statement of

1 information on alternatives, services, and assistance required
 2 under section 600A.3A.

3 k. Shall state that adoption records for adoptions
 4 finalized on or after the effective date of this Act are open
 5 to inspection by a principal party and that party's lineal
 6 ascendants and descendants when the adoptee reaches twenty-one
 7 years of age.

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

20 4. ~~Either a~~ A parent who has signed a ~~release of custody,~~
 21 ~~or a nonsigning parent,~~ voluntary surrender of parental rights
 22 may, at any time prior to the entry of an order terminating
 23 parental rights, ~~request the juvenile court designated in~~
 24 ~~section 600A.5 to order the revocation of any release of~~
 25 ~~custody previously executed by either parent~~ revoke the
 26 voluntary surrender. ~~If such request is by a signing parent,~~
 27 ~~and is within ninety-six hours of the time such parent signed~~
 28 ~~a release of custody, the juvenile court shall order the~~
 29 ~~release revoked. Otherwise, the juvenile court shall order~~
 30 ~~the release or releases revoked only upon clear and convincing~~
 31 ~~evidence that good cause exists for revocation. Good cause~~
 32 ~~for revocation includes but is not limited to a showing that~~
 33 ~~the release was obtained by fraud, coercion, or~~
 34 ~~misrepresentation of law or fact which was material to its~~
 35 ~~execution. In determining whether good cause, other than~~

1 ~~fraud, coercion or misrepresentation, exists for revocation,~~
2 ~~the juvenile court shall give paramount consideration to the~~
3 ~~best interests of the child and due consideration to the~~
4 ~~interests of the parents of the child and of any person~~
5 ~~standing in the place of the parents.~~

6 5. A person shall not deny a parent access to the parent's
7 child until the juvenile court enters an order terminating
8 parental rights.

9 Sec. 25. Section 600A.5, subsections 1 and 2, Code 1985,
10 are amended to read as follows:

11 1. The following persons may petition a juvenile court for
12 termination of parental rights under this chapter if the child
13 ~~of the parent-child relationship~~ is born or expected to be
14 ~~born within one hundred eighty days of the date of petition~~
15 ~~filing:~~

16 a. A parent or ~~prospective parent of the parent-child~~
17 ~~relationship.~~

18 b. A custodian or guardian of the child.

19 2. A petition for termination of parental rights shall be
20 filed with the juvenile court in the county in which the
21 guardian or custodian of the child resides or the child, ~~the~~
22 ~~natural mother or the pregnant woman~~ birth parent is
23 domiciled. If a juvenile court has made an order pertaining
24 to a minor child under chapter 232, division III and that
25 order is still in force, the termination proceedings shall be
26 conducted pursuant to ~~the provisions of~~ chapter 232, division
27 IV.

28 Sec. 26. Section 600A.6, subsection 1, Code 1985, is
29 amended to read as follows:

30 1. A termination of parental rights under this chapter
31 shall, unless provided otherwise in this section, be ordered
32 only after notice has been served on all necessary parties and
33 these parties have been given an opportunity to be heard
34 before the juvenile court except that notice need not be
35 served on the petitioner or on any necessary party who is

1 spouse of the petitioner. "Necessary party" means any person
2 whose name, residence, and domicile are required to be
3 included on the petition under section 600A.5, subsection 3,
4 paragraphs "a" and "b" except a ~~natural~~ birth parent who has
5 been convicted of having sexually abused the other ~~natural~~
6 birth parent while not cohabiting with that parent as husband
7 and wife, thereby producing the birth of the child who is the
8 subject of the termination proceedings.

9 Sec. 27. Section 600A.7, subsection 1, Code 1985, is
10 amended to read as follows:

11 1. The hearing on termination of parental rights shall be
12 conducted in accordance with ~~the provisions of~~ sections 232.91
13 to 232.96 and otherwise in accordance with the rules of civil
14 procedure. ~~Such~~ The hearing shall be held no earlier than ~~one~~
15 week thirty days after the child is born and no earlier than
16 fourteen days after a birth parent has signed a voluntary
17 surrender of parental rights.

18 Sec. 28. Section 600A.8, subsection 1, Code 1985, is
19 amended to read as follows:

20 1. A parent has signed a ~~release-of-custody~~ voluntary
21 surrender of parental rights pursuant to section 600A.4 and
22 the ~~release~~ voluntary surrender has not been revoked.

23 Sec. 29. NEW SECTION. 726.8 PROHIBITED PAYMENTS RELATING
24 TO ADOPTIONS.

25 A person who offers to pay or give money or anything of
26 value or who pays or gives money or anything of value to
27 another person for the placement for adoption, for a voluntary
28 surrender of parental rights, for consent to an adoption, or
29 for cooperation in the completion of an adoption of a minor
30 child over whom the person has possession, custody, con-
31 servatorship, or guardianship or with whom the person has a
32 parent-child relationship, is, upon conviction, guilty of a
33 serious misdemeanor. A person who receives money or any thing
34 of value from another person for the placement for adoption,
35 for a voluntary surrender of parental rights or for consent to

1 an adoption, or for cooperation in the completion of an
2 adoption of a minor child over whom the person receiving the
3 money or thing of value has possession, custody,
4 conservatorship, or guardianship or with whom the person has a
5 parent-child relationship, is, upon conviction, guilty of a
6 serious misdemeanor. This section does not make it unlawful
7 to pay or receive the expenses permitted under section 600.9
8 if the payment is not contingent upon placement of the minor
9 child for adoption, voluntary surrender of parental rights,
10 consent to the adoption, or cooperation in the completion of
11 the adoption.

12 Sec. 30. Sections 600.16 and 600.24, Code 1985, are
13 repealed.

14 EXPLANATION

15 This bill makes numerous changes in Iowa's adoption and
16 termination of parental rights law. New or modified defini-
17 tions for adoption record, birth parent, independent child-
18 placing person, and principal party are included. (Sections
19 1, 3, 4, 20, 21, and 22) Conforming and technical changes are
20 included. (Sections 10, 25, 26, 28, and 30) The bill creates
21 several new sections and makes internal references in the bill
22 to the new sections.

23 A. Records. The bill makes the following changes relating
24 to records:

25 1. Opens birth, termination, and adoption records for
26 adoptions finalized before April 26, 1945 to inspection by
27 principal parties and their lineal ascendants and descendants.
28 These records were sealed retroactively in 1945. (Sections 2
29 and 16)

30 2. Establishes a confidential intermediary procedure for
31 the voluntary disclosure of birth, termination, and adoption
32 information for adoptions finalized on or after April 26,
33 1945, with recourse to the district court for mandatory
34 disclosure.

35 a. The procedure authorizes an adult adoptee, an adoptive

1 parent or guardian of a minor adoptee, or a principal party
2 when the adoptee is at least 21 years old to request the
3 voluntary disclosure of information. An employee or agent of
4 the department of human services is required to confidentially
5 contact the principal party within four months of the request.

6 b. If a consent is on file or is obtained or if the
7 principal party is deceased, the department is required to
8 release the requested information. If the principal party
9 refuses to consent within 120 days of contact or cannot be
10 contacted, the department is prohibited from releasing any
11 information, but the requesting party may petition the
12 district court for disclosure.

13 c. The court must serve the principal party with original
14 notice, either personally or by publication. If no objection
15 to disclosure is received within 60 days, the court must
16 disclose the requested information. If an objection is
17 received within 60 days, the court must hold an ex parte
18 hearing within 180 days of the objection and disclose the
19 information unless the objecting party proves by clear and
20 convincing evidence that the disclosure would cause the
21 objecting party severe and irreparable harm. If the objecting
22 party prevails, the court must hold an ex parte hearing with
23 the requesting principal party and order disclosure, unless
24 the court determines, by clear and convincing evidence, after
25 weighing all evidence, that nondisclosure will be of greater
26 benefit than disclosure. (Sections 2 and 16)

27 3. Opens birth, termination, and adoption records for
28 adoptions finalized on or after the effective date of the bill
29 to inspection by principal parties and their lineal ascendants
30 and descendants when the adoptee reaches 21 years of age.
31 (Sections 2 and 16)

32 4. Requires the state registrar of vital statistics to
33 reveal the name and address of the court of adoption to a
34 guardian of a minor adoptee or a birth parent upon
35 application. Authorizes the court to allow inspection of

1 adoption records if necessary to save the life of or prevent
2 irreparable physical harm to a birth parent or the birth
3 parent's offspring, while making every effort to prevent the
4 revelation of the identity of the adoptee to the birth
5 parents. (Sections 2 and 16)

6 5. Allows a birth parent to inspect an adoptee's original
7 certificate of birth. A person authorized to inspect a
8 certificate of birth is entitled to receive a certified copy
9 of the certificate. (Section 2)

10 6. Establishes a voluntary reunion registry, to be
11 administered by the department of human services, to release
12 identifying information contained in sealed birth records
13 among the following persons who have consented in writing to
14 release to specific persons:

- 15 a. Adult adoptees.
- 16 b. Birth parents.
- 17 c. Siblings of adoptees.
- 18 d. Adoptive parents of minor adoptees.
- 19 e. Minor adoptees with the written consent of the adoptive
20 parents.

21 f. Lineal ascendants and descendants of the above persons.
22 If matching consents are obtained, the department must
23 release the information. (Section 19)

24 7. Requires child-placing agencies and independent child-
25 placing persons to report all adoptions to the department of
26 human services, including:

27 a. The agency's or person's name, birth and adoptive names
28 of the child, dates of birth and adoption, names of the birth
29 and adoptive parents, sibling identifying information, and the
30 court that finalized the adoption.

31 b. A copy of the accounting report of all disbursements of
32 value paid or agreed to be paid by the adoption petitioner,
33 currently required to be filed only with the court.

34 Requires adoption records to be submitted to the department
35 of human services if a child-placing agency, independent

1 child-placing person, or investigator ceases to function as
2 such.

3 Creates a criminal penalty for violation of the reporting
4 requirements and provides for injunctive relief. (Section 17)

5 8. Authorizes the use of departmental and agency adoption
6 records for research or medical treatment if identities are
7 concealed or if consents to the disclosure of specific
8 identities are obtained in writing. (Section 16)

9 9. Requires persons in possession of adoption records
10 compiled at any time by anyone to allow inspection under the
11 bill and to either preserve or transfer the information to the
12 department of human services. Creates a criminal penalty for
13 violation of the reporting requirements and provides for
14 injunctive relief. (Section 16)

15 10. Authorizes the department to allow inspection of
16 department or agency adoption records upon subpoena of a
17 county attorney or the attorney general.

18 B. Termination of parental rights. The bill makes the
19 following changes relating to termination of parent rights:

20 1. Requires child-placing agencies, independent child-
21 placing persons, or any other persons offering or providing a
22 service or counseling to provide a uniform written statement
23 prepared by the department of human services to birth parents
24 contemplating a voluntary surrender of parental rights. The
25 statement must include information on available alternatives,
26 services, and assistance and their possible consequences and
27 effects on the parents and child. The parents receiving the
28 statement must sign the statement which must be filed with the
29 department.

30 Provides for injunctive relief for violation of the
31 reporting requirements. (Section 23)

32 2. Requires voluntary surrenders of parental rights:

33 a. To be signed no earlier than 120 hours, rather than 72
34 hours, after birth.

35 b. To state that the surrender alone constitutes an

1 irrevocable consent to termination of parental rights unless
2 revoked but allows revocation at any time for any reason
3 before final termination of parental rights is ordered by the
4 court.

5 c. To be accompanied by the signed uniform written
6 statement on available alternatives, services, and assistance
7 and possible consequences and effects of surrender.

8 d. To state that termination and adoption records for
9 adoptions finalized on or after the effective date of the bill
10 are open to inspection by principal parties and their lineal
11 ascendants and descendants when the adoptee reaches 21 years
12 of age. (Section 24)

13 3. Prohibits any denial of birth parents' access to their
14 children prior to final termination of parental rights.
15 (Section 24)

16 4. Requires that the hearing on termination of parental
17 rights can be held no earlier than 30 days after birth and no
18 earlier than 14 days after a birth parent has signed a
19 voluntary surrender of parental rights. (Section 27)

20 C. Adoptions. The bill makes the following changes
21 relating to adoptions:

22 1. Authorizes child-placing agencies and independent
23 child-placing persons to arrange open adoptions where birth
24 and adoptive parents agree to direct or indirect communica-
25 tion, the exchange of identities, sibling contact, personal
26 contact, or other arrangements. An open adoption agreement
27 must be written, must be signed by the birth and adoptive
28 parents, and must be filed with the department. (Section 12)

29 2. Requires child-placing agencies and independent child-
30 placing persons to place siblings with the same prospective
31 adoptive parents whenever possible, and if placed for adoption
32 with different adoptive parents, to provide the adoptive
33 parents of a sibling with the names and addresses of other
34 siblings and to encourage physical contact between the
35 siblings. (Section 11)

1 3. Requires child-placing agencies and independent child-
2 placing persons, investigators, and clerks of the district
3 court to provide the following postplacement information to a
4 principal party upon request at any time:

5 a. Adoptees' personal medical and developmental histories
6 and family medical histories, compiled at any time.

7 b. Nonidentifying information concerning principal
8 parties.

9 c. Photographs and letters with the consent of principal
10 parties other than minor adoptees.

11 d. Information released by adult adoptees and birth
12 parents to each other. (Section 13)

13 4. Requires child-placing agencies and investigators to
14 provide the following postplacement services on request and to
15 charge reasonable fees on a sliding scale for the information
16 or services according to department of human services'
17 standards:

18 a. Information or referral on available assistance for
19 handicapped children.

20 b. Counseling or referral for principal parties, including
21 counseling relating to genetic disorders and other adoption-
22 related issues.

23 5. Requires child-placing agencies and independent child-
24 placing persons to attempt to contact adoptive parents of
25 minor adoptees or adult adoptees regarding eligibility for
26 benefit entitlements or inheritances from birth parents.
27 (Section 13)

28 6. Requires child-placing agencies and independent child-
29 placing persons to notify birth parents, unless the birth
30 parents have indicated in writing that they do not want to be
31 notified, that they may request an investigation of their own
32 parenting ability if any of the following circumstances occur:

33 a. The child is not adopted within three years of
34 surrender and termination of parental rights.

35 b. The child's placement for adoption does not result in

1 adoption.

2 c. The child was adopted but a petition for termination of
3 the adoptive parents' parental rights has been filed.

4 (Section 14)

5 7. Requires the department of human services to maintain a
6 list of hard-to-place children who are available for adoption
7 and a list of approved persons willing to adopt hard-to-place
8 children. Requires child-placing agencies and independent
9 child-placing persons to forward to the department the names
10 of children not placed for adoption within 30 days of
11 termination of parental rights. (Section 18)

12 8. Grants the department of human services specific rule-
13 making power in certain areas relating to adoptions. (Section
14 15)

15 9. Requires adoption petitions to identify the name and
16 residence of the involved child-placing agency or independent
17 child-placing person. (Section 5)

18 10. Requires preplacement and postplacement investigation
19 reports to be attached to the adoption petition and
20 distributed to interested parties 20 days prior to the holding
21 of the adoption hearing. (Sections 6 and 9)

22 11. Requires background information investigation reports
23 to include nonidentifying information regarding birth parents
24 or relatives which a birth parent wishes to have included.
25 (Section 7)

26 12. Requires adoption petitioners other than stepparents
27 to provide a more detailed accounting report of all
28 disbursements of value paid or agreed to be paid by or on
29 behalf of the petitioners in connection with an adoption and
30 requires attachment of proof of payment for each disbursement.
31 Limits the disbursements to payment for medical care,
32 professional counseling, and legal fees.

33 13. Provides that a person who offers to give or pay, who
34 gives or pays, or who receives any prohibited thing of value
35 in connection with an adoption is guilty of a serious
36 misdemeanor.