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SENATE FILE 2050

BY BARTZ

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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

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

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SF 2050

1 Section 1. NEW SECTION. 144.12A AFFIDAVIT OF PATERNITY
2 REGISTRY.

3 The registrar shall establish a registry for the filing of
4 affidavits of paternity completed pursuant to section 600A.2.
5 The division of records and statistics of the Iowa department
6 of public health shall accept and register an affidavit of
7 paternity without fees and without the signature of the mother
8 of the child, if the affidavit is filed within twenty days of
9 the child's birth or prior to the holding of a termination of
10 parental rights hearing, whichever is earlier. An affidavit
11 of paternity shall not be accepted after twenty days from the
12 date of birth of the child or after the holding of the
13 termination of parental rights hearing, whichever is earlier.

14 Sec. 2. Section 600.9, Code 1993, is amended by striking
15 the section and inserting in lieu thereof the following:

16 600.9 REPORT OF EXPENDITURES.

17 1. a. A natural parent shall not receive any thing of
18 value as a result of the natural parent's child or former
19 child being placed with and adopted by another person, unless
20 that thing of value is an allowable expense under subsection
21 2.

22 b. Any person assisting in any way with the placement or
23 adoption of a minor person shall not charge a fee which is
24 more than usual, necessary, and commensurate with the services
25 rendered.

26 c. If the natural parent receives any prohibited thing of
27 value, if a person gives a prohibited thing of value, or if a
28 person charges a prohibited fee under this subsection, each
29 person is guilty of a simple misdemeanor.

30 2. An adoption petitioner of a minor person shall file
31 with the court, prior to the adoption hearing, a full
32 accounting of all disbursements of any thing of value paid or
33 agreed to be paid by or on behalf of the petitioner in
34 connection with the petitioned adoption. This accounting
35 shall be made by a report prescribed by the court and shall be

1 signed and verified by the petitioner. Only expenses incurred
2 in connection with the following are allowable:

3 a. The birth of the minor person to be adopted.

4 b. Placement of the minor person with the adoption
5 petitioner and legal expenses related to the termination of
6 parental rights and adoption processes.

7 c. Medical care received by the natural parents or the
8 minor person during the pregnancy or delivery of the minor
9 person and for no longer than sixty days after the delivery of
10 the minor child.

11 d. Living expenses of the mother, permitted in an amount
12 not to exceed the cost of two months' room and board or two
13 months' rent and food, and transportation for medical purposes
14 only on a common carrier of persons or an ambulance.

15 e. Costs of the counseling of the natural parents prior to
16 the release of custody and filing of the petition to adopt by
17 the petitioners.

18 All payments for allowable expenses shall be made to the
19 provider and not directly to the natural parents. The
20 provisions of this subsection do not apply in a stepparent
21 adoption.

22 Sec. 3. Section 600.14, Code 1993, is amended by adding
23 the following new unnumbered paragraph:

24 NEW UNNUMBERED PARAGRAPH. The supreme court may adopt
25 rules which provide for the expediting of contested cases
26 under this chapter and chapter 600A.

27 Sec. 4. Section 600A.1, Code 1993, is amended to read as
28 follows:

29 600A.1 CONSTRUCTION.

30 This chapter shall be construed liberally. The welfare
31 best interests of the child subject to the proceedings of this
32 chapter shall be the paramount consideration in interpreting
33 this chapter. However, the interests of the parents of this
34 child or any natural person standing in the place of the
35 parents to this child shall be given due consideration in this

1 interpretation.

2 The best interests of a child require that each natural
3 parent affirmatively assume the duties encompassed by the role
4 of being a parent. This affirmative duty, in addition to
5 financial obligations, requires continued interest in the
6 child, a genuine effort to maintain communication with the
7 child, and requires that a parent establish and maintain a
8 place of importance in the child's life.

9 Sec. 5. Section 600A.2, Code 1993, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 14A. "Putative father" means a man who is
12 or claims to be the biological father of a child born to a
13 woman to whom the man is not married at the time of birth of
14 the child.

15 Sec. 6. Section 600A.2, subsection 17, Code 1993, is
16 amended to read as follows:

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

24 b. In reference to a putative father, the putative father
25 is presumed to have abandoned the child when the child reaches
26 twenty days of age or at the time of the holding of a
27 termination of parental rights hearing, whichever is earlier,
28 unless the putative father meets one of the following
29 conditions:

30 (1) Files an affidavit of paternity with the division of
31 records and statistics of the Iowa department of public
32 health. The division of records and statistics shall accept
33 and register an affidavit of paternity without fees and
34 without the mother's signature, if the affidavit is filed
35 within twenty days of the child's birth or prior to the

1 holding of a termination of parental rights hearing, whichever
2 is earlier. The affidavit is a public record. An affidavit
3 of paternity shall not be accepted after twenty days from the
4 date of birth of the child or after the holding of the
5 termination of parental rights hearing, whichever is earlier.

6 (2) Files a petition to establish paternity and support
7 pursuant to chapter 600B and serves notice on the child's
8 mother and on any prospective adoptive parents within twenty
9 days of the child's birth or prior to the holding of a
10 termination of parental rights hearing, whichever is earlier.

11 Sec. 7. Section 600A.4, subsection 2, Code 1993, is
12 amended by adding the following new paragraph after paragraph
13 c and relettering the subsequent paragraphs:

14 NEW PARAGRAPH. d. Shall be preceded by the offering of
15 counseling to the natural parents regarding the decision to
16 release custody and the alternatives available to the natural
17 parents in disposition of the child. The natural parents
18 shall sign an affidavit acknowledging the offering of
19 counseling. Counseling shall be provided by licensed
20 counselors with experience in the area of adoption.

21 Sec. 8. Section 600A.5, Code 1993, is amended by adding
22 the following new subsection:

23 NEW SUBSECTION. 4. If a putative father seeks to retain
24 parental rights with respect to a child, the putative father
25 shall file a declaration of paternity with the court in which
26 the termination proceeding is pending and shall request in
27 writing to be notified of further proceedings with respect to
28 any termination of the putative father's parental rights. If
29 the putative father does not file a declaration of paternity
30 and request to be notified of any further proceedings, any
31 legal rights the putative father may have with respect to the
32 child will be deemed terminated with the entry of a decree
33 terminating the parental rights of the mother.

34 Sec. 9. Section 600A.6, subsections 5 and 6, Code 1993,
35 are amended to read as follows:

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

13 6. The juvenile court shall require that every reasonable
14 effort is made to identify, locate, and give actual notice an
15 unidentified-necessary-party to each natural parent of the
16 child. ~~A-reasonable-effort-to-notice-such-party-shall-not-be~~
17 ~~by-published-notice-which-includes-the-name-of-any-identified~~
18 ~~necessary-party--if-the-juvenile-court-reasonably-concludes,~~
19 ~~upon-a-proper-showing,-that-the-identity-and-location-of-the~~
20 ~~necessary-party-has-not-been-determined,-the-juvenile-court~~
21 ~~shall,-upon-proper-findings-and-order-entered-of-record,~~
22 ~~dispense-with-notice-to-this-necessary-party:~~ Notice to all
23 known but unlocated and to all unknown putative fathers shall
24 be published pursuant to subsection 5, in the form as provided
25 in this subsection. If the identity of a putative father is
26 known and the putative father's location is unknown, notice by
27 publication shall also include the name of the putative
28 father. The child's actual or expected date of birth and
29 place of birth shall also be stated in the notice. The notice
30 shall be substantially in the following form:

31 TO: _____ (AND) ALL PUTATIVE FATHERS OF A CHILD (EXPECTED
32 TO BE) BORN ON THE _____ DAY OF _____, 19 _____, IN
33 _____, IOWA.

34 You are notified that there is now on file in the office of
35 the clerk of court for _____ county, a petition in case

1 number _____, which prays for a termination of your
2 parent-child relationship to a child (expected to be) born on
3 the _____ day of _____, 19 ____ . For further
4 details contact the clerk's office. The petitioner's attorney
5 is _____.

6 If you wish to retain your rights with respect to this
7 child, you must file a declaration of paternity in the above-
8 numbered court case on or before the date set for hearing on
9 the termination of parental rights. If you do not file such a
10 declaration, any legal rights you have with respect to the
11 child will be terminated without further notice to you. Fol-
12 lowing termination of your legal rights with respect to the
13 child, you will not be entitled to notice of any proceeding
14 instituted for the adoption of the child.

15 You are notified that there will be a hearing on the peti-
16 tion to terminate parental rights before the Iowa District
17 Court For _____ County, at the Courthouse in _____,
18 Iowa, at _____ .M. on the _____ day of
19 _____.

20 CLERK OF THE ABOVE COURT

21 Sec. 10. NEW SECTION. 600A.9A TERMINATION PROCEDURES --
22 PENALTY FOR VIOLATION.

- 23 1. Any person who knowingly and intentionally
24 misidentifies a natural parent in any procedure or document
25 relating to a termination of parental rights is guilty of a
26 serious misdemeanor.
27 2. Any person who accepts a release of custody under sec-
28 tion 600A.4 prior to the expiration of the seventy-two-hour
29 period required, is guilty of a serious misdemeanor.

30 EXPLANATION

31 This bill addresses the areas of termination of parental
32 rights and adoption. The bill includes provisions which
33 describe the types of expenditures for which payment to birth
34 parents is allowed by prospective adoptive parents; requires
35 that counseling be offered to birth parents prior to release

1 of custody; provides the best interest of the child in
2 termination of parental rights decisions requires affirmative
3 parenting; redefines "to abandon a minor child", in reference
4 to a putative father, to mean that the putative father has not
5 filed an affidavit of paternity or has not filed a petition to
6 establish paternity; requires that if a putative father is to
7 retain parental rights with respect to a child, the putative
8 father must file a declaration of paternity and request to be
9 notified of further proceedings with the court in which a
10 termination action is pending or the putative father's rights
11 will be terminated; provides for notice to natural fathers and
12 the form of the notice, including notice by publication; and
13 provides penalties for knowingly and intentionally
14 misidentifying a natural parent in a termination proceeding or
15 document relating to the proceeding or for accepting a release
16 of custody prior to the minimum 72-hour limitation period.

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