

FILED FEB 3 1998

JUDICIARY

SENATE FILE 2095

BY MADDOX

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act to extend the jurisdiction of the juvenile court to  
2 include adoption and termination of parental rights  
3 proceedings.

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

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S.F. 2095

1 Section 1. NEW SECTION. 232.6 JURISDICTION -- ADOPTIONS  
2 AND TERMINATIONS OF PARENTAL RIGHTS.

3 The court may exercise jurisdiction over adoption and  
4 termination of parental rights proceedings under chapters 600  
5 and 600A.

6 Sec. 2. Section 600.1, Code 1997, is amended to read as  
7 follows:

8 600.1 CONSTRUCTION.

9 This chapter shall be construed liberally. The best  
10 interest of the person to be adopted shall be the paramount  
11 consideration in interpreting this chapter. However, the  
12 interests of the adopting parents shall be given due  
13 consideration in this interpretation. However, in determining  
14 the best interest of the person to be adopted and the  
15 interests of the adopting parents, any evidence of interests  
16 relating to a period of time during which the person to be  
17 adopted is placed with prospective adoptive parents and during  
18 which the placement is not in compliance with the law,  
19 adoption procedures, or any action by the juvenile court or  
20 court, shall not be considered in the determination.

21 Sec. 3. Section 600.3, Code 1997, is amended to read as  
22 follows:

23 600.3 COMMENCEMENT OF ADOPTION ACTION -- JURISDICTION --  
24 FORUM NON CONVENIENS.

25 1. An action for the adoption of any natural person shall  
26 be commenced by the filing of an adoption petition, as  
27 prescribed in section 600.5, in the juvenile court or court of  
28 the county in which an adult person to be adopted is domiciled  
29 or resides, or in the juvenile court or court of the county in  
30 which the guardian of a minor person to be adopted or the  
31 petitioner is domiciled or resides.

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

35 a. No termination of parental rights is required if the

1 person to be adopted is an adult.

2 b. If the stepparent of the child to be adopted is the  
3 adoption petitioner, the parent-child relationship between the  
4 child and the parent who is not the spouse of the petitioner  
5 may be terminated as part of the adoption proceeding by the  
6 filing of that parent's consent to the adoption.

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

12 Any adoption proceeding pending on or completed prior to  
13 July 1, 1978, is hereby legalized and validated to the extent  
14 that it is consistent with this subsection.

15 3. If upon filing of the adoption petition or at any later  
16 time in the adoption action the juvenile court or court finds  
17 that in the interest of substantial justice the adoption  
18 action should be conducted in another juvenile court or court,  
19 it may transfer, stay, or dismiss the adoption action on any  
20 conditions that are just.

21 Sec. 4. Section 600.4, subsection 3, paragraph c, Code  
22 1997, is amended to read as follows:

23 c. Is unable to petition with the other spouse because of  
24 the prolonged and unexplained absence, unavailability, or  
25 incapacity of the other spouse, or because of an unreasonable  
26 withholding of joinder by the other spouse, as determined by  
27 the juvenile court or court under section 600.5, subsection 7.

28 Sec. 5. Section 600.5, unnumbered paragraph 1, Code 1997,  
29 is amended to read as follows:

30 An adoption petition shall be signed and verified by the  
31 petitioner, shall be filed with the juvenile court or court  
32 designated in section 600.3, and shall state:

33 Sec. 6. Section 600.5, subsection 7, Code 1997, is amended  
34 to read as follows:

35 7. A designation of the particular provision in section

1 600.4 under which the petitioner is qualified to adopt and, if  
2 under section 600.4, subsection 3, paragraph "c", a request  
3 that the juvenile court or court approve the petitioner's  
4 qualification to adopt.

5 Sec. 7. Section 600.7, subsection 1, unnumbered paragraph  
6 1, Code 1997, is amended to read as follows:

7 An adoption petition shall not be granted unless the  
8 following persons consent to the adoption or unless the  
9 juvenile court or court makes a determination under subsection  
10 4:

11 Sec. 8. Section 600.7, subsection 2, paragraphs a and b,  
12 Code 1997, are amended to read as follows:

13 a. If by any minor person to be adopted who is fourteen  
14 years of age or older, in the presence of the juvenile court  
15 or court in which the adoption petition is filed.

16 b. If by any other person, either in the presence of the  
17 juvenile court or court in which the adoption petition is  
18 filed or before a notary public.

19 Sec. 9. Section 600.7, subsections 3 and 4, Code 1997, are  
20 amended to read as follows:

21 3. A consent to the adoption may be withdrawn prior to the  
22 issuance of an adoption decree under section 600.13 by the  
23 filing of an affidavit of consent withdrawal with the juvenile  
24 court or court. Such affidavit shall be treated in the same  
25 manner as an attached verified statement is treated under  
26 subsection 4.

27 4. If any person required to consent under this section  
28 refuses to or cannot be located to give consent, the  
29 petitioner may attach to the petition a verified statement of  
30 such refusal or lack of location. The juvenile court or court  
31 shall then determine, at the adoption hearing prescribed in  
32 section 600.12, whether, in the best interests of the person  
33 to be adopted and the petitioner, any particular consent shall  
34 be unnecessary to the granting of an adoption petition.

35 Sec. 10. Section 600.8, subsection 2, paragraph a, Code

1 1997, is amended to read as follows:

2 a. A preplacement investigation and report of the  
3 investigation shall be completed and the prospective adoption  
4 petitioner approved for a placement by the person making the  
5 investigation prior to any agency or independent placement of  
6 a minor person in the petitioner's home in anticipation of an  
7 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 with  
10 that petitioner after one year from the date of the report's  
11 issuance. However, if the prospective adoption petitioner is  
12 a relative within the fourth degree of consanguinity who has  
13 assumed custody of a minor person to be adopted, a  
14 preplacement investigation of this petitioner and a report of  
15 the investigation may be completed at a time established by  
16 the juvenile court or court or may be waived as provided in  
17 subsection 12.

18 Sec. 11. Section 600.8, subsections 4, 7, 8, 9, and 12,  
19 Code 1997, are amended to read as follows:

20 4. A postplacement investigation and a background  
21 information investigation and the reports of these  
22 investigations shall be completed and the reports filed with  
23 the juvenile court or court prior to the holding of the  
24 adoption hearing prescribed in section 600.12. Upon the  
25 filing of an adoption petition pursuant to section 600.5, the  
26 juvenile court or court shall immediately appoint the  
27 department, an agency, or an investigator to conduct and  
28 complete the postplacement and background information  
29 investigations and reports. In addition to filing the  
30 background information report with the juvenile court or court  
31 prior to the holding of the adoption hearing, the department,  
32 agency, or investigator appointed to conduct the background  
33 information investigation shall complete the background  
34 information investigation and report and furnish a copy to the  
35 adoption petitioner within thirty days after the filing of the

1 adoption petition. Any person, ~~including a juvenile court,~~  
2 who has gained relevant background information concerning a  
3 minor person subject to an adoption petition shall, upon  
4 request, fully co-operate with the conducting of the  
5 background information investigation and report by disclosing  
6 any relevant background information, whether contained in  
7 sealed records or not.

8 7. Any investigation or report required under this section  
9 shall not apply when the person to be adopted is an adult or  
10 when the prospective adoption petitioner or adoption  
11 petitioner is a stepparent of the person to be adopted.

12 However, in the case of a stepparent adoption, the juvenile  
13 court or court, upon the request of an interested person or on  
14 its own motion stating the reasons therefor of record, may  
15 order an investigation or report pursuant to this section.

16 8. Any person designated to make an investigation and  
17 report under this section may request an agency or state  
18 agency, within or outside this state, to conduct a portion of  
19 the investigation or the report, as may be appropriate, and to  
20 file a supplemental report of such investigation or report  
21 with the juvenile court or court. In the case of the adoption  
22 of a minor person by a person domiciled or residing in any  
23 other jurisdiction of the United States, any investigation or  
24 report required under this section which has been conducted  
25 pursuant to the standards of that other jurisdiction shall be  
26 recognized in this state.

27 9. The department may investigate, on its own initiative  
28 or on order of the juvenile court or court, any placement made  
29 or adoption petition filed under this chapter or chapter 600A  
30 and may report its resulting recommendation to the juvenile  
31 court or court.

32 12. Any investigation and report required under subsection  
33 1 of this section may be waived by the juvenile court or court  
34 if the adoption petitioner is related within the fourth degree  
35 of consanguinity to the person to be adopted.

1     Sec. 12. Section 600.9, subsection 2, unnumbered paragraph  
2 1, Code 1997, is amended to read as follows:

3     An adoption petitioner of a minor person shall file with  
4 the juvenile court or court, prior to the adoption hearing, a  
5 full accounting of all disbursements of any thing of value  
6 paid or agreed to be paid by or on behalf of the petitioner in  
7 connection with the petitioned adoption. This accounting  
8 shall be made by a report prescribed by the juvenile court or  
9 court and shall be signed and verified by the petitioner.  
10 Only expenses incurred in connection with the following and  
11 any other expenses approved by the juvenile court or court are  
12 allowable:

13     Sec. 13. Section 600.10, Code 1997, is amended to read as  
14 follows:

15     600.10   MINIMUM RESIDENCE OF A MINOR CHILD.

16     The adoption of a minor person shall not be decreed until  
17 that person has lived with the adoption petitioner for a  
18 minimum residence period of one hundred eighty days. However,  
19 the juvenile court or court may waive this period if the  
20 adoption petitioner is a stepparent or related to the minor  
21 person within the fourth degree of consanguinity or may  
22 shorten this period upon good cause shown when the juvenile  
23 court or court is satisfied that the adoption petitioner and  
24 the person to be adopted are suited to each other.

25     Sec. 14. Section 600.11, subsections 1 and 3, Code 1997,  
26 are amended to read as follows:

27     1. The juvenile court or court shall set the time and  
28 place of the adoption hearing prescribed in section 600.12  
29 upon application of the petitioner. The juvenile court or  
30 court may continue the adoption hearing if the notice  
31 prescribed in subsections 2 and 3 is given, except that such  
32 notice shall only be given at least ten days prior to the date  
33 which has been set for the continuation of the adoption  
34 hearing.

35     3. A notice of the adoption hearing shall state the time,

1 place, and purpose of the hearing and shall be served in  
2 accordance with rule of civil procedure 56.1. Proof of the  
3 giving of notice shall be filed with the juvenile court or  
4 court prior to the adoption hearing. Acceptance of service by  
5 the party being given notice shall satisfy the requirements of  
6 this subsection.

7 Sec. 15. Section 600.12, subsections 2 and 3, Code 1997,  
8 are amended to read as follows:

9 2. Only those persons notified under section 600.11 and  
10 their witnesses and legal counsel or persons requested by the  
11 juvenile court or court to be present shall be admitted to the  
12 court chambers while an adoption hearing is being conducted.  
13 The adoption petitioner and the person to be adopted shall be  
14 present at the hearing, unless the presence of either is  
15 excused by the juvenile court or court.

16 3. Any person admitted to the hearing shall be heard and  
17 allowed to present evidence upon request and according to the  
18 manner in which the juvenile court or court conducts the  
19 hearing.

20 Sec. 16. Section 600.13, subsections 1, 2, 3, 5, and 6,  
21 Code 1997, are amended to read as follows:

22 1. At the conclusion of the adoption hearing, the juvenile  
23 court or court shall:

- 24 a. Issue a final adoption decree;  
25 b. Issue an interlocutory adoption decree; or,  
26 c. Dismiss the adoption petition if the requirements of  
27 this Act have not been met or if dismissal of the adoption  
28 petition is in the best interest of the person whose adoption  
29 has been petitioned. Upon dismissal, the juvenile court or  
30 court shall determine who is to be guardian or custodian of a  
31 minor child, including the adoption petitioner if it is in the  
32 best interest of the minor person whose adoption has been  
33 petitioned.

34 2. An interlocutory adoption decree automatically becomes  
35 a final adoption decree at a date specified by the juvenile

1 court or court in the interlocutory adoption decree, which  
2 date shall not be less than one hundred eighty days nor more  
3 than three hundred sixty days from the date the interlocutory  
4 decree is issued. However, an interlocutory adoption decree  
5 may be vacated prior to the date specified for it to become  
6 final. Also, the juvenile court or court may provide in the  
7 interlocutory adoption decree for further observation,  
8 investigation, and report of the conditions of and the  
9 relationships between the adoption petitioner and the person  
10 petitioned to be adopted.

11 3. If an interlocutory adoption decree is vacated under  
12 subsection 2, it shall be void from the date of issuance and  
13 the rights, duties, and liabilities of all persons affected by  
14 it shall, unless they have become vested, be governed  
15 accordingly. Upon vacation of an interlocutory adoption  
16 decree, the juvenile court or court shall proceed under the  
17 provisions of subsection 1, paragraph "c".

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

1 the new birth certificate. The parents shall pay the fee  
2 prescribed in section 144.46. If the person adopted was born  
3 outside the state, the state registrar shall forward the  
4 certification of adoption to the appropriate agency in the  
5 state or foreign nation of birth. A copy of any interlocutory  
6 adoption decree vacation shall be delivered and another birth  
7 certificate shall be prepared in the same manner as a  
8 certification of adoption is delivered and the birth  
9 certificate was originally prepared.

10 6. The clerk of the ~~district~~ court shall attach to the  
11 certified copy of the decree delivered to the department, a  
12 copy of the adoption information form required to be attached  
13 to the adoption petition under section 600.6, subsection 5.

14 Sec. 17. Section 600.15, subsection 1, paragraphs a and b,  
15 Code 1997, are amended to read as follows:

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

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

24 Sec. 18. Section 600.16A, subsection 2, paragraphs b and  
25 c, Code 1997, are amended to read as follows:

26 b. The juvenile court or court, for good cause, shall  
27 order the opening of the permanent adoption record of the  
28 juvenile court or court for the adopted person who is an adult  
29 and reveal the names of either or both of the biological  
30 parents following consideration of both of the following:

31 (1) A biological parent may file an affidavit requesting  
32 that the juvenile court or court reveal or not reveal the  
33 parent's identity. The juvenile court or court shall consider  
34 any such affidavit in determining whether there is good cause  
35 to order opening of the records. To facilitate the biological

1 parents in filing an affidavit, the department shall, upon  
2 request of a biological parent, provide the biological parent  
3 with an adoption information packet containing an affidavit  
4 for completion and filing with the juvenile court or court.

5 (2) If the adopted person who applies for revelation of  
6 the biological parents' identity has a sibling who is a minor  
7 and who has been adopted by the same parents, the juvenile  
8 court or court may deny the application on the grounds that  
9 revelation to the applicant may also indirectly and harmfully  
10 permit the same revelation to the applicant's minor sibling.

11 c. A biological sibling of an adopted person may file or  
12 may request that the department file an affidavit in the  
13 juvenile court or court in which the adopted person's adoption  
14 records have been sealed requesting that the juvenile court or  
15 court reveal or not reveal the sibling's name to the adopted  
16 person. The juvenile court or court shall consider any such  
17 affidavit in determining whether there is good cause to order  
18 opening of the records upon application for revelation by the  
19 adopted person. However, the name of the biological sibling  
20 shall not be revealed until the biological sibling has  
21 attained majority.

22 Sec. 19. Section 600.16A, subsection 3, paragraph b,  
23 unnumbered paragraph 3, Code 1997, is amended to read as  
24 follows:

25 Notwithstanding the provisions of this subsection, if the  
26 adult adopted person has a sibling who is a minor and who has  
27 also been adopted by the same parents, the department, the  
28 clerk of court, or the agency which made the placement may  
29 deny the request of either the adult adopted person or the  
30 biological parent to open the adoption records and to reveal  
31 the identities of the parties pending determination by the  
32 juvenile court or court that there is good cause to open the  
33 records pursuant to subsection 2.

34 Sec. 20. Section 600.16A, subsection 4, Code 1997, is  
35 amended to read as follows:

1 4. An adopted person whose adoption became final prior to  
2 July 4, 1941, and whose adoption record was not required to be  
3 sealed at the time when the adoption record was completed,  
4 shall not be required to show good cause for an order opening  
5 the adoption record under this subsection, provided that the  
6 juvenile court or court shall consider any affidavit filed  
7 under this subsection.

8 Sec. 21. Section 600.18, unnumbered paragraph 1, Code  
9 1997, is amended to read as follows:

10 Any prospective adoptive parent desiring financial  
11 assistance shall state this fact in the petition for adoption.  
12 The department of human services shall investigate the person  
13 petitioning for adoption and the child and shall file with the  
14 juvenile court or court a statement of whether the department  
15 will provide assistance as provided in sections 600.17 to  
16 600.22, the estimated amount, extent, and duration of  
17 assistance, and any other information the juvenile court or  
18 court may order.

19 Sec. 22. Section 502.8102, subsections 42 and 43, Code  
20 Supplement 1997, are amended to read as follows:

21 42. Serve as clerk of the juvenile court and carry out  
22 duties as provided in chapter 232 and article 7 of this  
23 chapter.

24 43. Submit to the director of the division of child and  
25 family services of the department of human services a  
26 duplicate of the findings of the district court related to  
27 adoptions as provided in section 235.3, subsection 7.

28 EXPLANATION

29 This bill permits the juvenile court to exercise  
30 jurisdiction over adoption proceedings and specifies that the  
31 juvenile court also exercises jurisdiction over proceedings  
32 for termination of parental rights. Currently, adoption  
33 proceedings may only be presided over by a district court  
34 judge.

35 Currently, the termination of parental rights chapter, Code

1 chapter 600A, provides for the exercise of jurisdiction by the  
2 juvenile court in those matters. However, Code chapter 232,  
3 which establishes the parameters of juvenile court  
4 jurisdiction under Code section 602.7101, contains no  
5 reference to the exercise of jurisdiction under Code chapter  
6 600A. The bill adds a reference to Code chapter 600A and Code  
7 chapter 232 to provide for juvenile court exercise of  
8 jurisdiction in those matters.

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