

Senate Study Bill 1187

Bill Text

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

1 3 The court may exercise jurisdiction over adoption and
1 4 termination of parental rights proceedings under chapters 600
1 5 and 600A.

1 6 Sec. 2. Section [600.1](#), Code 1999, is amended to read as
1 7 follows:

1 8 600.1 CONSTRUCTION.

1 9 This chapter shall be construed liberally. The best
1 10 interest of the person to be adopted shall be the paramount
1 11 consideration in interpreting this chapter. However, the
1 12 interests of the adopting parents shall be given due
1 13 consideration in this interpretation. However, in determining
1 14 the best interest of the person to be adopted and the
1 15 interests of the adopting parents, any evidence of interests
1 16 relating to a period of time during which the person to be
1 17 adopted is placed with prospective adoptive parents and during
1 18 which the placement is not in compliance with the law,
1 19 adoption procedures, or any action by the juvenile court or
1 20 court, shall not be considered in the determination.

1 21 Sec. 3. Section [600.3](#), Code 1999, is amended to read as
1 22 follows:

1 23 600.3 COMMENCEMENT OF ADOPTION ACTION JURISDICTION
1 24 FORUM NON CONVENIENS.

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

1 32 2. An adoption petition shall not be filed until a
1 33 termination of parental rights has been accomplished except in
1 34 the following cases:

1 35 a. No termination of parental rights is required if the
2 1 person to be adopted is an adult.

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

2 7 For the purposes of this subsection, a consent to adopt
2 8 recognized by the juvenile courts or courts of another
2 9 jurisdiction in the United States and obtained from a resident
2 10 of that jurisdiction shall be accepted in this state in lieu
2 11 of a termination of parental rights proceeding.

2 12 Any adoption proceeding pending on or completed prior to
2 13 July 1, 1978, is hereby legalized and validated to the extent
2 14 that it is consistent with this subsection.

2 15 3. If upon filing of the adoption petition or at any later
2 16 time in the adoption action the juvenile court or court finds
2 17 that in the interest of substantial justice the adoption
2 18 action should be conducted in another juvenile court or court,
2 19 it may transfer, stay, or dismiss the adoption action on any
2 20 conditions that are just.

2 21 Sec. 4. Section [600.4](#), subsection 3, paragraph c, Code

2 22 1999, is amended to read as follows:

2 23 c. Is unable to petition with the other spouse because of
2 24 the prolonged and unexplained absence, unavailability, or
2 25 incapacity of the other spouse, or because of an unreasonable
2 26 withholding of joinder by the other spouse, as determined by
2 27 the juvenile court or court under section 600.5, subsection 7.

2 28 Sec. 5. Section [600.5](#), unnumbered paragraph 1, Code 1999,
2 29 is amended to read as follows:

2 30 An adoption petition shall be signed and verified by the
2 31 petitioner, shall be filed with the juvenile court or court
2 32 designated in section 600.3, and shall state:

2 33 Sec. 6. Section [600.5](#), subsection 7, Code 1999, is amended
2 34 to read as follows:

2 35 7. A designation of the particular provision in section
3 1 600.4 under which the petitioner is qualified to adopt and, if
3 2 under section 600.4, subsection 3, paragraph "c", a request
3 3 that the juvenile court or court approve the petitioner's
3 4 qualification to adopt.

3 5 Sec. 7. Section [600.7](#), subsection 1, unnumbered paragraph
3 6 1, Code 1999, is amended to read as follows:

3 7 An adoption petition shall not be granted unless the
3 8 following persons consent to the adoption or unless the
3 9 juvenile court or court makes a determination under subsection
3 10 4:

3 11 Sec. 8. Section [600.7](#), subsection 2, paragraphs a and b,
3 12 Code 1999, are amended to read as follows:

3 13 a. If by any minor person to be adopted who is fourteen
3 14 years of age or older, in the presence of the juvenile court
3 15 or court in which the adoption petition is filed.

3 16 b. If by any other person, either in the presence of the
3 17 juvenile court or court in which the adoption petition is
3 18 filed or before a notary public.

3 19 Sec. 9. Section [600.7](#), subsections 3 and 4, Code 1999, are
3 20 amended to read as follows:

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

3 27 4. If any person required to consent under this section
3 28 refuses to or cannot be located to give consent, the
3 29 petitioner may attach to the petition a verified statement of
3 30 such refusal or lack of location. The juvenile court or court
3 31 shall then determine, at the adoption hearing prescribed in
3 32 section 600.12, whether, in the best interests of the person
3 33 to be adopted and the petitioner, any particular consent shall
3 34 be unnecessary to the granting of an adoption petition.

3 35 Sec. 10. Section [600.8](#), subsection 2, paragraph a, Code
4 1 1999, is amended to read as follows:

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

4 18 Sec. 11. Section [600.8](#), subsections 4, 7, 8, 9, and 12,

4 19 Code 1999, are amended to read as follows:

4 20 4. A postplacement investigation and a background
4 21 information investigation and the reports of these
4 22 investigations shall be completed and the reports filed with
4 23 the juvenile court or court prior to the holding of the
4 24 adoption hearing prescribed in section 600.12. Upon the
4 25 filing of an adoption petition pursuant to section 600.5, the
4 26 juvenile court or court shall immediately appoint the
4 27 department, an agency, or an investigator to conduct and
4 28 complete the postplacement and background information
4 29 investigations and reports. In addition to filing the
4 30 background information report with the juvenile court or court
4 31 prior to the holding of the adoption hearing, the department,
4 32 agency, or investigator appointed to conduct the background
4 33 information investigation shall complete the background
4 34 information investigation and report and furnish a copy to the
4 35 adoption petitioner within thirty days after the filing of the
5 1 adoption petition. Any person

~~, including a juvenile court,~~

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

5 8 7. Any investigation or report required under this section
5 9 shall not apply when the person to be adopted is an adult or
5 10 when the prospective adoption petitioner or adoption
5 11 petitioner is a stepparent of the person to be adopted.
5 12 However, in the case of a stepparent adoption, the juvenile
5 13 court or court, upon the request of an interested person or on
5 14 its own motion stating the reasons therefor of record, may
5 15 order an investigation or report pursuant to this section.

5 16 8. Any person designated to make an investigation and
5 17 report under this section may request an agency or state
5 18 agency, within or outside this state, to conduct a portion of
5 19 the investigation or the report, as may be appropriate, and to
5 20 file a supplemental report of such investigation or report
5 21 with the juvenile court or court. In the case of the adoption
5 22 of a minor person by a person domiciled or residing in any
5 23 other jurisdiction of the United States, any investigation or
5 24 report required under this section which has been conducted
5 25 pursuant to the standards of that other jurisdiction shall be
5 26 recognized in this state.

5 27 9. The department may investigate, on its own initiative
5 28 or on order of the juvenile court or court, any placement made
5 29 or adoption petition filed under this chapter or chapter 600A
5 30 and may report its resulting recommendation to the juvenile
5 31 court or court.

5 32 12. Any investigation and report required under subsection
5 33 1 of this section may be waived by the juvenile court or court
5 34 if the adoption petitioner is related within the fourth degree
5 35 of consanguinity to the person to be adopted.

6 1 Sec. 12. Section 600.9, subsection 2, unnumbered paragraph
6 2 1, Code 1999, is amended to read as follows:

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

6 13 Sec. 13. Section [600.10](#), Code 1999, is amended to read as
6 14 follows:

6 15 600.10 MINIMUM RESIDENCE OF A MINOR CHILD.

6 16 The adoption of a minor person shall not be decreed until
6 17 that person has lived with the adoption petitioner for a
6 18 minimum residence period of one hundred eighty days. However,
6 19 the juvenile court or court may waive this period if the
6 20 adoption petitioner is a stepparent or related to the minor
6 21 person within the fourth degree of consanguinity or may
6 22 shorten this period upon good cause shown when the juvenile
6 23 court or court is satisfied that the adoption petitioner and
6 24 the person to be adopted are suited to each other.

6 25 Sec. 14. Section [600.11](#), subsections 1 and 3, Code 1999,
6 26 are amended to read as follows:

6 27 1. The juvenile court or court shall set the time and
6 28 place of the adoption hearing prescribed in section 600.12
6 29 upon application of the petitioner. The juvenile court or
6 30 court may continue the adoption hearing if the notice
6 31 prescribed in subsections 2 and 3 is given, except that such
6 32 notice shall only be given at least ten days prior to the date
6 33 which has been set for the continuation of the adoption
6 34 hearing.

6 35 3. A notice of the adoption hearing shall state the time,
7 1 place, and purpose of the hearing and shall be served in
7 2 accordance with rule of civil procedure 56.1. Proof of the
7 3 giving of notice shall be filed with the juvenile court or
7 4 court prior to the adoption hearing. Acceptance of service by
7 5 the party being given notice shall satisfy the requirements of
7 6 this subsection.

7 7 Sec. 15. Section [600.12](#), subsections 2 and 3, Code 1999,
7 8 are amended to read as follows:

7 9 2. Only those persons notified under section 600.11 and
7 10 their witnesses and legal counsel or persons requested by the
7 11 juvenile court or court to be present shall be admitted to the
7 12 court chambers while an adoption hearing is being conducted.
7 13 The adoption petitioner and the person to be adopted shall be
7 14 present at the hearing, unless the presence of either is
7 15 excused by the juvenile court or court.

7 16 3. Any person admitted to the hearing shall be heard and
7 17 allowed to present evidence upon request and according to the
7 18 manner in which the juvenile court or court conducts the
7 19 hearing.

7 20 Sec. 16. Section [600.12A](#), subsections 1 and 2, Code 1999,
7 21 are amended to read as follows:

7 22 1. If the person to be adopted dies following the filing
7 23 of an adoption petition pursuant to section 600.3, but prior
7 24 to issuance of a final adoption decree pursuant to section
7 25 600.13, the juvenile court or court may waive any
7 26 investigations and reports required pursuant to section 600.8
7 27 that remain uncompleted, waive the minimum residence
7 28 requirements pursuant to section 600.10, proceed to the
7 29 adoption hearing, and issue a final adoption decree, unless
7 30 any person to whom notice is to be provided pursuant to
7 31 section 600.11 objects to the adoption.

7 32 2. If the person to be adopted dies following termination
7 33 of the parental rights of the person's biological parents but
7 34 prior to the filing of an adoption petition, the person who
7 35 was the guardian or custodian of the person to be adopted
8 1 prior to the person's death or the person who was in a parent-
8 2 child relationship with the person to be adopted prior to the
8 3 person's death may file an adoption petition and the juvenile
8 4 court or court in the interest of justice may waive any other
8 5 procedures or requirements related to the adoption, proceed to
8 6 the adoption hearing, and issue a final adoption decree,
8 7 unless any person to whom notice is to be provided pursuant to
8 8 section 600.11 objects to the adoption.

8 9 Sec. 17. Section [600.13](#), subsections 1, 2, 3, 5, and 6,

8 10 Code 1999, are amended to read as follows:

8 11 1. At the conclusion of the adoption hearing, the juvenile
8 12 court or court shall:

8 13 a. Issue a final adoption decree;

8 14 b. Issue an interlocutory adoption decree; or,

8 15 c. Dismiss the adoption petition if the requirements of
8 16 this Act have not been met or if dismissal of the adoption
8 17 petition is in the best interest of the person whose adoption
8 18 has been petitioned. Upon dismissal, the juvenile court or
8 19 court shall determine who is to be guardian or custodian of a
8 20 minor child, including the adoption petitioner if it is in the
8 21 best interest of the minor person whose adoption has been
8 22 petitioned.

8 23 2. An interlocutory adoption decree automatically becomes
8 24 a final adoption decree at a date specified by the juvenile
8 25 court or court in the interlocutory adoption decree, which
8 26 date shall not be less than one hundred eighty days nor more
8 27 than three hundred sixty days from the date the interlocutory
8 28 decree is issued. However, an interlocutory adoption decree
8 29 may be vacated prior to the date specified for it to become
8 30 final. Also, the juvenile court or court may provide in the
8 31 interlocutory adoption decree for further observation,
8 32 investigation, and report of the conditions of and the
8 33 relationships between the adoption petitioner and the person
8 34 petitioned to be adopted.

8 35 3. If an interlocutory adoption decree is vacated under
9 1 subsection 2, it shall be void from the date of issuance and
9 2 the rights, duties, and liabilities of all persons affected by
9 3 it shall, unless they have become vested, be governed
9 4 accordingly. Upon vacation of an interlocutory adoption
9 5 decree, the juvenile court or court shall proceed under the
9 6 provisions of subsection 1, paragraph "c".

9 7 5. An interlocutory or a final adoption decree shall be
9 8 entered with the clerk of

~~the~~

- court. Such decree shall set

9 9 forth any facts of the adoption petition which have been
9 10 proven to the satisfaction of the juvenile court or court and
9 11 any other facts considered to be relevant by the juvenile
9 12 court or court and shall grant the adoption petition. If so
9 13 designated in the adoption decree, the name of the adopted
9 14 person shall be changed by issuance of that decree. The clerk
9 15 of the court shall, within thirty days of issuance, deliver
9 16 one certified copy of any adoption decree to the petitioner,
9 17 one copy of any adoption decree to the department and any
9 18 agency or person making an independent placement who placed a
9 19 minor person for adoption, and one certification of adoption
9 20 as prescribed in section 144.19 to the state registrar of
9 21 vital statistics. Upon receipt of the certification, the
9 22 state registrar shall prepare a new birth certificate pursuant
9 23 to section 144.23 and deliver to the parents named in the
9 24 decree and any adult person adopted by the decree a copy of
9 25 the new birth certificate. The parents shall pay the fee
9 26 prescribed in section 144.46. If the person adopted was born
9 27 outside the state, the state registrar shall forward the
9 28 certification of adoption to the appropriate agency in the
9 29 state or foreign nation of birth. A copy of any interlocutory
9 30 adoption decree vacation shall be delivered and another birth
9 31 certificate shall be prepared in the same manner as a
9 32 certification of adoption is delivered and the birth
9 33 certificate was originally prepared.

9 34 6. The clerk of

~~the district~~

- court shall attach to the

9 35 certified copy of the decree delivered to the department, a

10 1 copy of the adoption information form required to be attached
10 2 to the adoption petition under section 600.6, subsection 5.

10 3 Sec. 18. Section [600.15](#), subsection 1, paragraphs a and b,
10 4 Code 1999, are amended to read as follows:

10 5 a. A decree establishing a parent-child relationship by
10 6 adoption which is issued pursuant to due process of law by a
10 7 juvenile court or court of any other jurisdiction in the
10 8 United States shall be recognized in this state.

10 9 b. A decree terminating a parent-child relationship which
10 10 is issued pursuant to due process of law by a juvenile court
10 11 or court of any other jurisdiction in the United States shall
10 12 be recognized in this state.

10 13 Sec. 19. Section [600.16A](#), subsection 2, paragraphs b and
10 14 c, Code 1999, are amended to read as follows:

10 15 b. The juvenile court or court, for good cause, shall
10 16 order the opening of the permanent adoption record of the
10 17 juvenile court or court for the adopted person who is an adult
10 18 and reveal the names of either or both of the biological
10 19 parents following consideration of both of the following:

10 20 (1) A biological parent may file an affidavit requesting
10 21 that the juvenile court or court reveal or not reveal the
10 22 parent's identity. The juvenile court or court shall consider
10 23 any such affidavit in determining whether there is good cause
10 24 to order opening of the records. To facilitate the biological
10 25 parents in filing an affidavit, the department shall, upon
10 26 request of a biological parent, provide the biological parent
10 27 with an adoption information packet containing an affidavit
10 28 for completion and filing with the juvenile court or court.

10 29 (2) If the adopted person who applies for revelation of
10 30 the biological parents' identity has a sibling who is a minor
10 31 and who has been adopted by the same parents, the juvenile
10 32 court or court may deny the application on the grounds that
10 33 revelation to the applicant may also indirectly and harmfully
10 34 permit the same revelation to the applicant's minor sibling.

10 35 c. A biological sibling of an adopted person may file or
11 1 may request that the department file an affidavit in the
11 2 juvenile court or court in which the adopted person's adoption
11 3 records have been sealed requesting that the juvenile court or
11 4 court reveal or not reveal the sibling's name to the adopted
11 5 person. The juvenile court or court shall consider any such
11 6 affidavit in determining whether there is good cause to order
11 7 opening of the records upon application for revelation by the
11 8 adopted person. However, the name of the biological sibling
11 9 shall not be revealed until the biological sibling has
11 10 attained majority.

11 11 Sec. 20. Section [600.16A](#), subsection 3, paragraph b,
11 12 unnumbered paragraph 3, Code 1999, is amended to read as
11 13 follows:

11 14 Notwithstanding the provisions of this subsection, if the
11 15 adult adopted person has a sibling who is a minor and who has
11 16 also been adopted by the same parents, the department, the
11 17 clerk of court, or the agency which made the placement may
11 18 deny the request of either the adult adopted person or the
11 19 biological parent to open the adoption records and to reveal
11 20 the identities of the parties pending determination by the
11 21 juvenile court or court that there is good cause to open the
11 22 records pursuant to subsection 2.

11 23 Sec. 21. Section [600.16A](#), subsection 4, Code 1999, is
11 24 amended to read as follows:

11 25 4. An adopted person whose adoption became final prior to
11 26 July 4, 1941, and whose adoption record was not required to be
11 27 sealed at the time when the adoption record was completed,
11 28 shall not be required to show good cause for an order opening
11 29 the adoption record under this subsection, provided that the
11 30 juvenile court or court shall consider any affidavit filed
11 31 under this subsection.

11 32 Sec. 22. Section [600.18](#), unnumbered paragraph 1, Code

11 33 1999, is amended to read as follows:

11 34 Any prospective adoptive parent desiring financial
11 35 assistance shall state this fact in the petition for adoption.
12 1 The department of human services shall investigate the person
12 2 petitioning for adoption and the child and shall file with the
12 3 juvenile court or court a statement of whether the department
12 4 will provide assistance as provided in sections 600.17 to
12 5 600.22, the estimated amount, extent, and duration of
12 6 assistance, and any other information the juvenile court or
12 7 court may order.

12 8 Sec. 23. Section 602.8102, subsections 42 and 43, Code
12 9 1999, are amended to read as follows:

12 10 42. Serve as clerk of the juvenile court and carry out
12 11 duties as provided in chapter 232 and article 7 of this
12 12 chapter.

12 13 43. Submit to the director of the division of child and
12 14 family services of the department of human services a
12 15 duplicate of the findings of the

~~district~~

- court related to

12 16 adoptions as provided in section 235.3, subsection 7.

12 17 EXPLANATION

12 18 This bill permits the juvenile court to exercise
12 19 jurisdiction over adoption proceedings and specifies that the
12 20 juvenile court also exercises jurisdiction over proceedings
12 21 for termination of parental rights. Currently, adoption
12 22 proceedings may only be presided over by a district court
12 23 judge.

12 24 Currently, the termination of parental rights chapter, Code
12 25 chapter 600A, provides for the exercise of jurisdiction by the
12 26 juvenile court in those matters. However, Code chapter 232,
12 27 which establishes the parameters of juvenile court
12 28 jurisdiction under Code section 602.7101, contains no
12 29 reference to the exercise of jurisdiction under Code chapter
12 30 600A. The bill adds a reference to Code chapter 600A and Code
12 31 chapter 232 to provide for juvenile court exercise of
12 32 jurisdiction in those matters.

12 33 LSB 2524DP 78

12 34 jm/cf/24