

17 No marriage dissolution granted due to the mental illness of one of the spouses
 18 shall relieve the other spouse of any obligation imposed by law as a result of the
 19 marriage for the support of the mentally ill spouse; ~~and the~~. *The court may make*
 20 *an order for such support or may waive the support obligation when satisfied from*
 21 *the evidence that it would create an undue hardship on the obliged spouse or his other*
 22 *dependents.*

1 SEC. 8. Section five hundred ninety-eight point nineteen (598.19), Code 1975,
 2 is amended to read as follows:

3 **598.19 Waiting period before decree.** No decree dissolving a marriage shall
 4 be granted in any proceeding before ninety days shall have elapsed from the day
 5 the original notice is served, or from the last day of publication of notice, or from
 6 the date that waiver or acceptance of original notice is filed or until after
 7 conciliation is completed, whichever period shall be longer. However, the court
 8 may in its discretion, on written motion supported by affidavit setting forth
 9 grounds of emergency or necessity and facts which satisfy the court that
 10 immediate action is warranted or required to protect the substantive rights or
 11 interests of any party or person who might be affected by the decree, hold a
 12 hearing and grant a decree dissolving the marriage prior to the expiration of the
 13 applicable period, provided that requirements of notice have been complied with.
 14 In such case the grounds of emergency or necessity and the facts with respect
 15 thereto shall be recited in the decree unless otherwise ordered by the court. *The*
 16 *court may enter an order finding the respondent in default and waiving conciliation*
 17 *when the respondent has failed to file an appearance within the time set forth in the*
 18 *original notice.*

1 SEC. 9. Section five hundred ninety-eight point twenty-five (598.25),
 2 subsections one (1) and two (2), Code 1975, are amended to read as follows:

3 1. The party initiating such proceedings must present to the court the names
 4 and addresses of the parties to the dissolution decree if known, as well as the
 5 name and place of the court which granted the dissolution decree *and the date of*
 6 *the decree.*

7 2. The court in which the proceedings are initiated shall, if possible, cause
 8 notice of such proceedings to be served upon the parties to the original action
 9 *unless either or both parties are deceased.*

1 SEC. 10. Sections five hundred ninety-eight point ten (598.10), five hundred
 2 ninety-eight point twenty-seven (598.27), and five hundred ninety-eight point
 3 thirty-three (598.33), Code 1975, are repealed.

Approved May 20, 1976

CHAPTER 1229

PARENTAL RIGHTS TERMINATED

H. F. 614

AN ACT relating to termination of parental rights and adoption and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I

1 SECTION 1. NEW SECTION. **Construction.** This division shall be construed
 2 liberally. The welfare of the child subject to the proceedings of this division shall

3 be the paramount consideration in interpreting this division. However, the
4 interests of the parents of this child or any natural person standing in the place of
5 the parents to this child shall be given due consideration in this interpretation.

1 SEC. 2. NEW SECTION. **Definitions.** As used in this division:

2 1. "Child" means a son or daughter of a parent, whether by birth or adoption.

3 2. "Parent" means a father or mother of a child, whether by birth or adoption.

4 3. "Parent-child relationship" means the relationship between a parent and a
5 child recognized by the law as conferring certain rights and privileges and
6 imposing certain duties. The term extends equally to every child and every parent,
7 regardless of the marital status of the parents of the child. The rights, duties, and
8 privileges recognized in the parent-child relationship include those which are
9 maintained by a guardian, custodian, and guardian ad litem.

10 4. "Termination of parental rights" means a complete severance and
11 extinguishment of a parent-child relationship between one or both living parents
12 and the child.

13 5. "Natural parent" means a parent who has been a biological party to the
14 procreation of the child.

15 6. "Stepparent" means a person who is the spouse of a parent in a parent-child
16 relationship, but who is not a parent in that parent-child relationship.

17 7. "Guardian" means a person who is not the parent of a minor child, but who
18 has been appointed by a court or juvenile court having jurisdiction over the minor
19 child to make important decisions which have permanent effect on the life and
20 development of that child and to promote the general welfare of that child. A
21 guardian may be a court or a juvenile court. Guardian does not mean
22 conservator, as defined in section six hundred thirty-three point three (633.3) of
23 the Code, although a person who is appointed to be a guardian may also be
24 appointed to be a conservator.

25 Unless otherwise enlarged or circumscribed by a court or juvenile court having
26 jurisdiction over the minor child or by operation of law, the rights and duties of a
27 guardian with respect to a minor child shall be as follows:

28 a. To consent to marriage, enlistment in the armed forces of the United States,
29 or medical, psychiatric, or surgical treatment.

30 b. To serve as guardian ad litem, unless the interests of the guardian conflict
31 with the interests of the minor child or unless another person has been appointed
32 guardian ad litem.

33 c. To serve as custodian, unless another person has been appointed custodian.

34 d. To make reasonable visitations if the guardian does not have physical
35 possession or custody of the minor child.

36 e. To consent to adoption and to make any other decision that the parents
37 could have made when the parent-child relationship existed.

38 8. "Custodian" means a stepparent or a relative within the fourth degree of
39 consanguinity to a minor child who has assumed responsibility for that child, a
40 person who has accepted a release of custody, or a person appointed by a court
41 or juvenile court having jurisdiction over a child. The rights and duties of a
42 custodian with respect to a child shall be as follows:

43 a. To maintain or transfer to another the physical possession of that child.

44 b. To protect, train, and discipline that child.

45 c. To provide food, clothing, housing, and ordinary medical care for that child.

46 d. To consent to emergency medical care, including surgery.

47 e. To sign a release of medical information to a health professional.

48 All rights and duties of a custodian shall be subject to any residual rights and
49 duties remaining in a parent or guardian.

50 9. "Guardian ad litem" means a person appointed by a court or juvenile court
51 having jurisdiction over the minor child to represent that child in a legal action.

52 10. "Minor" means an unmarried person who is under the age of eighteen
53 years.

54 11. "Adult" means a person who is married or eighteen years of age or older.

55 12. "Agency" means a child-placing agency as defined in section two hundred
56 thirty-eight point two (238.2) of the Code or the department.

57 13. "Department" means the state department of social services or its
58 subdivisions.

59 14. "Court" means a district court.

60 15. "Juvenile court" means a juvenile court as established under section two
61 hundred thirty-one point one (231.1) of the Code.

62 16. "To abandon a minor child" means to permanently relinquish or surrender,
63 without reference to any particular person, the parental rights, duties, or privileges
64 inherent in the parent-child relationship. The term includes both the intention to
65 abandon and the acts by which the intention is evidenced. The term does not
66 require that the relinquishment or surrender be over a long or any particular
67 period of time.

68 17. "Independent placement" means placement of a minor person by a person,
69 other than an agency, in the home of a proposed parent in anticipation of an
70 ensuing adoption.

1 SEC. 3. NEW SECTION. **Exclusivity.** Termination of parental rights shall be
2 accomplished only according to the provisions of this division. However,
3 termination of parental rights between an adult child and the child's parents may
4 be accomplished by a decree of adoption establishing a new parent-child
5 relationship.

1 SEC. 4. NEW SECTION. **Relationship unaltered—release of custody—**
2 **voluntariness of release.**

3 1. A parent shall not permanently alter the parent-child relationship, except as
4 ordered by a juvenile court or court. However, custody of a minor child may be
5 assumed by a stepparent or a relative of that child within the fourth degree of
6 consanguinity or transferred by an acceptance of a release of custody. A person
7 who assumes custody or who accepts a release of custody under this section
8 becomes, upon assumption or acceptance, the custodian of the minor child.

9 2. A release of custody:

10 a. Shall be accepted only by an agency or a person making an independent
11 placement.

12 b. Shall not be accepted by a person who in any way intends to adopt the child
13 who is the subject of the release.

14 c. Shall be in writing.

15 d. Shall be signed, not less than seventy-two hours after the birth of the child to
16 be released, by all living parents.

17 e. Shall be witnessed by two disinterested persons familiar with the parent-child
18 relationship.

19 f. Shall name the person who is accepting the release.

20 g. Shall be followed, within a reasonable time, by the filing of a petition for
21 termination of parental rights under section five (5) of this Act.

22 h. Shall state the purpose of the release, including that if it is not revoked it
23 may be grounds for termination, and shall fully inform the signing parent of the
24 manner in which the parent may seek to revoke the release.

25 3. Notwithstanding the provisions of subsection two (2) of this section, an
26 agency or a person making an independent placement may assume custody of a
27 minor child upon the signature of the one living parent who has possession of the
28 minor child if the agency or a person making an independent placement
29 immediately petitions the juvenile court designated in section five (5) of this Act
30 to be appointed custodian and otherwise petitions, within a reasonable time, for
31 termination of parental rights under section five (5) of this Act. Upon the custody
32 petition, the juvenile court may appoint a guardian as well as a custodian. A
33 nonsigning parent may be heard on the custody petition at the hearing on
34 termination of parental rights provided in section six (6) of this Act.

35 4. A parent who signs a release of custody may petition, within the time prior
 36 to the hearing on termination of parental rights, or may request, at the hearing on
 37 termination of parental rights, the juvenile court designated in section five (5) of
 38 this Act, to order the release revoked. If, within ninety-six hours of signing the
 39 release a parent petitions to have the release revoked, the juvenile court shall
 40 order the release revoked. Otherwise, the juvenile court shall order the release
 41 revoked only upon clear and convincing evidence that good cause exists for
 42 revocation. Good cause for revocation includes but is not limited to a showing
 43 that the release was obtained by fraud, coercion, or misrepresentation of law or
 44 fact which was material to its execution. In determining whether good cause,
 45 other than fraud, coercion, or misrepresentation, exists for revocation, the juvenile
 46 court shall give paramount consideration to the best interests of the child and due
 47 consideration to the interests of the parents of the child and of any person
 48 standing in the place of the parents.

1 **SEC. 5. NEW SECTION. Petition for termination.**

2 1. The following persons may petition a juvenile court for termination of
 3 parental rights if the child of the parent-child relationship is born or expected to
 4 be born within one hundred eighty days of the date of petition filing:
 5 a. A parent or prospective parent of the parent-child relationship.
 6 b. A custodian or guardian of the child.
 7 c. Any other person who has knowledge of circumstances indicating that the
 8 parent-child relationship should be terminated.
 9 2. A petition for termination of parental rights shall be filed with the juvenile
 10 court in which the guardian or custodian of the child resides or the child or the
 11 pregnant woman is domiciled. However, if a juvenile court has made an order
 12 pertaining to a minor child under section two hundred thirty-two point thirty-
 13 three (232.33) of the Code and that order is still in force, the petition shall be filed
 14 with that juvenile court.
 15 3. A petition for termination of parental rights shall include the following:
 16 a. The legal name, age, and domicile, if any, of the child.
 17 b. The names, residences, and domicile of any:
 18 (1) Living parents of the child.
 19 (2) Guardian of the child.
 20 (3) Custodian of the child.
 21 (4) Guardian ad litem of the child.
 22 (5) Petitioner.
 23 (6) Person standing in the place of the parents of the child.
 24 c. A plain statement of the facts and grounds in section eight (8) of this Act
 25 which indicate that the parent-child relationship should be terminated.
 26 d. A plain statement explaining why the petitioner does not know any of the
 27 information required under paragraphs a and b of this subsection.
 28 e. The signature and verification of the petitioner.

1 **SEC. 6. NEW SECTION. Notice of termination hearing.**

2 1. A termination of parental rights shall, unless provided otherwise in this
 3 section, be effectuated only after notice has been served on all necessary parties
 4 and these parties have been given an opportunity to be heard before the juvenile
 5 court. A "necessary party" includes any person whose name, residence, and
 6 domicile is required to be included on the petition under paragraphs a and b of
 7 subsection three (3) of section five (5) of this Act. However, a "necessary party"
 8 does not include a natural parent who has been adjudicated to have raped the
 9 other natural parent thereby producing the birth of the child designated in
 10 paragraph a of subsection three (3) of section five (5) of this Act.
 11 2. Prior to the service of notice on the necessary parties, the juvenile court shall
 12 appoint a guardian ad litem for a minor child if the child does not have a
 13 guardian or guardian ad litem or if the interests of the guardian or guardian ad
 14 litem conflict with the interests of the child. Such guardian ad litem shall be a

15 necessary party under subsection one (1) of this section.

16 3. Notice under this section may be served personally or constructively, as
17 specified under subsections four (4), five (5), and six (6) of this section. This
18 notice shall state:

19 a. The time and place of the hearing on termination of parental rights.

20 b. A clear statement of the purpose of the action and hearing.

21 4. A necessary party whose identity and location or last location is known shall
22 be served by notice personally delivered or sent by restricted certified mail,
23 whichever is determined to be the most effective means of notification. Such
24 notice shall be made according to the rules of civil procedure relating to an
25 original notice where not inconsistent with the provisions of this section. Notice
26 by personal delivery shall be served not less than seven days prior to the hearing
27 on termination of parental rights. Notice by restricted certified mail shall be sent
28 not less than fourteen days prior to the hearing on termination of parental rights.
29 A notice by restricted certified mail which is refused by the necessary party being
30 noticed shall be sufficient notice to that party under this section.

31 5. A necessary party whose identity is known but whose location or last
32 location is unknown may be served by published notice. Such notice shall be
33 served according to the rules of civil procedure relating to an original notice
34 where not inconsistent with the provisions of this section. In addition to the
35 requirements of subsection three (3) of this section, such notice shall include only
36 the name of the unlocated necessary party being noticed. Notice by publication
37 shall be published once a week for two consecutive weeks, the last publication to
38 be not less than seven days prior to the hearing on termination of parental rights.

39 6. The juvenile court shall require that every reasonable effort is made to
40 identify, locate, and notice an unidentified and unlocated necessary party. A
41 reasonable effort to notice this necessary party shall not be by published notice
42 which includes the name of any identified necessary party. If the juvenile court
43 reasonably concludes, upon a proper showing, that the identity and location of
44 the necessary party has not been determined, the juvenile court shall, upon proper
45 findings and order entered of record, dispense with notice to this necessary party.

46 7. Proof of service of notice in the manner prescribed shall be filed with the
47 juvenile court prior to the hearing on termination of parental rights and approved
48 by the juvenile court prior to issuance of a termination order under section eight
49 (8) of this Act.

1 **SEC. 7. NEW SECTION. Termination hearing—forum non conveniens.**

2 1. The hearing on termination of parental rights shall be conducted in
3 accordance to the provisions of sections two hundred thirty-two point twenty-
4 seven (232.27), two hundred thirty-two point twenty-eight (232.28), two hundred
5 thirty-two point thirty (232.30), and two hundred thirty-two point thirty-two
6 (232.32) of the Code and otherwise in accordance with the rules of civil
7 procedure. Such hearing shall be held not less than one week after the child is
8 born.

9 2. Relevant information, including that contained in reports, studies, or
10 examinations and testified to by interested persons, may be admitted into
11 evidence at the hearing and relied upon to the extent of its probative value. When
12 such information is so admitted, the person sponsoring it or testifying shall be
13 subject to both direct and cross-examination by a necessary party.

14 3. If the juvenile court finds that in the interest of substantial justice the
15 hearing on termination of parental rights should be heard by another juvenile
16 court, it may transfer, stay, or dismiss the proceedings in whole or part on any
17 conditions that are just so long as a good faith attempt is made to notify all
18 necessary parties.

1 **SEC. 8. NEW SECTION. Grounds for termination.** The juvenile court shall
2 base its findings and order under section nine (9) of this Act on clear and
3 convincing proof. The following shall be, either separately or jointly, grounds for

4 ordering termination of parental rights:

5 1. A parent has signed a release of custody pursuant to section four (4) of this
6 Act and the release has not been revoked.

7 2. A parent has petitioned for the parent's termination of parental rights
8 pursuant to section five (5) of this Act.

9 3. A parent has abandoned the child.

10 4. A parent has substantially, continuously, or repeatedly refused or neglected
11 to comply with the duties imposed upon that parent by the parent-child
12 relationship.

13 5. A parent is palpably unfit to be a party to the parent-child relationship
14 because of a consistent pattern of specific conduct before the child or of specific
15 conditions directly relating to the parent-child relationship either of which are
16 determined by the juvenile court to be permanently detrimental to the physical or
17 mental health of the child.

18 6. If, following an adjudication that the child is in need of assistance under
19 chapter two hundred thirty-two (232) of the Code, reasonable efforts under the
20 direction of the juvenile court have failed to correct the conditions giving rise to
21 this adjudication.

22 7. A parent has been ordered to contribute to the support of the child or
23 financially aid in the child's birth and has failed to do so without good cause.
24 This subsection shall not be construed so as to state a grounds for termination of
25 parental rights of a noncustodial parent if that parent has not been ordered to or
26 cannot financially contribute to the support of the child or aid in the child's birth.

1 **SEC. 9. NEW SECTION. Termination findings and order—vacation of order.**

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

4 a. The petition be dismissed;

5 b. The petition should not be granted at that time, but that conditions
6 indicating that the child is in need of assistance exist, and an order to that effect
7 is issued pursuant to section two hundred thirty-two point thirty-three (232.33) of
8 the Code; or,

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

14 2. If an order is issued under paragraph c of subsection one (1) of this section,
15 the juvenile court shall retain jurisdiction to change a guardian or custodian and
16 to allow a terminated parent to request vacation of the termination order if:

17 a. The child is not on placement for adoption or a petition for adoption of the
18 child is not on file; and,

19 b. The guardian consents in writing to the vacation.

20 The juvenile court shall grant the vacation request if it is in the best interest of
21 the child.

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

24 a. The department.

25 b. The petitioner.

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

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

28

DIVISION II

1 **SEC. 10. NEW SECTION. Construction.** This division shall be construed
2 liberally. The welfare of the person to be adopted shall be the paramount
3 consideration in interpreting this division. However, the interests of the adopting
4 parents shall be given due consideration in this interpretation.

1 **SEC. 11. NEW SECTION. Definitions.**

2 1. "Child", "parent", "parent-child relationship", "termination of parental
3 rights", "natural parent", "stepparent", "guardian", "custodian", "guardian ad
4 litem", "minor", "adult", "agency", "department", "court", "juvenile court",
5 "independent placement" mean the same as defined in section two (2) of this Act.

6 2. "Investigator" means a natural person who is certified or approved by the
7 department as being capable of conducting an investigation under section
8 seventeen (17) of this Act.

1 **SEC. 12. NEW SECTION. Commencement of adoption action—jurisdiction—
2 forum non conveniens.**

3 1. An action for the adoption of any natural person shall be commenced by the
4 filing of an adoption petition, as prescribed in section fourteen (14) of this Act, in
5 the court of the county in which an adult person to be adopted is domiciled or
6 resides, or in the court of the county in which the guardian of a minor person to
7 be adopted or the petitioner is domiciled or resides.

8 2. Unless the person to be adopted is an adult, an adoption petition shall not
9 be filed until a termination of parental rights has been accomplished. However,
10 this subsection shall not apply to the parent-child relationship existing between a
11 child and a parent whose spouse is a petitioning stepparent of that child.

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

1 **SEC. 13. NEW SECTION. Qualifications to file adoption petition.** Any person
2 who may adopt may file an adoption petition under section twelve (12) of this
3 Act. The following persons may adopt:

4 1. An unmarried adult.

5 2. A husband and wife together.

6 3. A husband or wife separately if the person to be adopted is not the other
7 spouse and if the adopting spouse:

8 a. Is the stepparent of the person to be adopted;

9 b. Has been separated from the other spouse by reason of the other spouse's
10 abandonment as prescribed in section five hundred ninety-seven point ten
11 (597.10) of the Code; or

12 c. Is unable to petition with the other spouse because of the prolonged and
13 unexplained absence, unavailability, or incapacity of the other spouse, or because
14 of an unreasonable withholding of joinder by the other spouse, as determined by
15 the court under subsection seven (7) of section fourteen (14) of this Act.

1 **SEC. 14. NEW SECTION. Contents of an adoption petition.** An adoption
2 petition shall be signed and verified by the petitioner, shall be filed with the court
3 designated in section twelve (12) of this Act, and shall state:

4 1. The name, as it appears on the birth certificate or in a verified birth record
5 or as it appears as a result of marriage, and the residence or domicile of the
6 person to be adopted.

7 2. The date and place of birth of the person to be adopted.

8 3. Any new name requested to be given the person to be adopted.

9 4. The name, residence, and domicile of any guardian, custodian, or guardian
10 ad litem for the person to be adopted.

11 5. The name, residence, and domicile of the petitioner, if this is not required to
12 be stated under subsection four (4) of this section, and the date or expected date
13 on which the person to be adopted, if a minor, began or begins living with the
14 petitioner.

15 6. The name, residence, and domicile of any parent of the person to be
16 adopted.

17 7. A designation of the particular provision in section thirteen (13) of this Act
 18 under which the petitioner is qualified to adopt and, if under paragraph c of
 19 subsection three (3) of section thirteen (13), a request that the court approve the
 20 petitioner's qualification to adopt.

21 8. A description and estimate of the value of any property owned by or held for
 22 the person to be adopted.

23 9. A description of the facilities and resources, including those provided under
 24 a subsidy agreement pursuant to section six hundred point eleven (600.11)
 25 through section six hundred point sixteen (600.16) of the Code, that the petitioner
 26 is willing and able to supply for the nurture and care of any minor person to be
 27 adopted.

28 10. When and where termination of parental rights pertaining to the person to
 29 be adopted have occurred, if termination was required under section twelve (12)
 30 of this Act.

1 SEC. 15. NEW SECTION. **Attachments to an adoption petition.** An adoption
 2 petition shall have attached to it the following:

3 1. A certified copy of the birth certificate showing parentage of the person to
 4 be adopted or, if such certificate is not available, a verified birth record.

5 2. A copy of any order terminating parental rights with respect to the person to
 6 be adopted.

7 3. Any written consent and verified statement required under section sixteen
 8 (16) of this Act, except the consent required under paragraph d of subsection one
 9 (1) of that section.

10 4. Any pre-placement investigation report that has been prepared at the time of
 11 filing pursuant to section seventeen (17) of this Act.

1 SEC. 16. NEW SECTION. **Consents to the adoption.**

2 1. An adoption petition shall not be granted unless the following persons
 3 consent to the adoption or unless the court makes a determination under
 4 subsection four (4) of this section:

5 a. Any guardian of the person to be adopted.

6 b. The spouse of a petitioner who is a stepparent.

7 c. The spouse of a petitioner who is separately petitioning to adopt an adult
 8 person.

9 d. The person to be adopted if that person is fourteen years of age or older.

10 2. A consent to the adoption shall be in writing, shall name the person to be
 11 adopted and the petitioner, shall be signed by the person consenting, and shall be
 12 made in the following manner:

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

15 b. If by any adult person to be adopted, either in the presence of the court in
 16 which the adoption petition is filed or before a notary public.

17 c. If by any other person, before a notary public.

18 3. A consent to the adoption may be withdrawn prior to the issuance of an
 19 adoption decree under section twenty-two (22) by the filing of an affidavit of
 20 consent withdrawal with the court. Such affidavit shall be treated in the same
 21 manner as an attached verified statement is treated under subsection four (4) of
 22 this section.

23 4. If any person required to consent under this section refuses to or cannot be
 24 located to give consent, the petitioner may attach to the petition a verified
 25 statement of such refusal or lack of location. The court shall then determine, at
 26 the adoption hearing prescribed in section twenty-one (21) of this Act, whether, in
 27 the best interests of the person to be adopted and the petitioner, any particular
 28 consent shall be unnecessary to the granting of an adoption petition.

1 SEC. 17. NEW SECTION. **Placement investigations and reports.**

2 1. a. A pre-placement investigation shall be directed to and a report of this

3 investigation shall answer the following:

4 (1) Whether the home of the prospective adoption petitioner is a suitable one
5 for the placement of a minor person to be adopted.

6 (2) How the prospective adoption petitioner's emotional maturity, finances,
7 health, relationships, and any other relevant factor may affect the petitioner's
8 ability to accept, care, and provide a minor person to be adopted with an
9 adequate environment as that person matures.

10 b. A post-placement investigation and a report of this investigation shall:

11 (1) Verify the allegations of the adoption petition and its attachments and of
12 the report of expenditures required under section eighteen (18) of this Act.

13 (2) Evaluate the progress of the placement of the minor person to be adopted.

14 (3) Determine whether adoption by the adoption petitioner may be in the best
15 interests of the minor person to be adopted.

16 c. A background information investigation and a report of this investigation
17 shall not disclose the identity of the natural parents of the minor person to be
18 adopted and shall answer the following:

19 (1) What is the complete family medical history of the person to be adopted,
20 including any known genetic, metabolic, or familial disorders.

21 (2) What is the complete medical and developmental history of the person to be
22 adopted.

23 2. a. A pre-placement investigation and report of the investigation shall be
24 completed and the prospective adoption petitioner approved for a placement by
25 the person making the investigation prior to any agency or independent
26 placement of a minor person in the petitioner's home in anticipation of an
27 ensuing adoption. A report of a pre-placement investigation that has approved a
28 prospective adoption petitioner for a placement shall not authorize placement of a
29 minor person with that petitioner after one year from the date of the report's
30 issuance. However, if the prospective adoption petitioner is a stepparent or a
31 relative within the fourth degree of consanguinity who has assumed custody of a
32 minor person to be adopted, a pre-placement investigation of this petitioner and a
33 report of the investigation may be completed at a time established by the court.
34 Also, any investigation and report required under this subsection may be waived
35 by the court if the prospective adoption petitioner is a stepparent or a relative to
36 the person to be adopted within the fourth degree of consanguinity.

37 b. If the person making the investigation does not approve a prospective
38 adoption petitioner under paragraph a of this subsection, the person investigated
39 may appeal the disapproval as a contested case to the commissioner of social
40 services. Judicial review of any adverse decision by the commissioner may be
41 sought pursuant to chapter seventeen A (17A) of the Code.

42 3. The agency making an agency placement shall conduct the pre-placement
43 investigation and report required under subsection two (2) of this section. The
44 department or an investigator shall conduct all other investigations and reports
45 required under subsection two (2) of this section.

46 4. A post-placement and a background information investigation and the
47 reports of these investigations shall be completed and the reports filed with the
48 court prior to the holding of the adoption hearing prescribed in section twenty-
49 one (21) of this Act. Upon the filing of an adoption petition pursuant to section
50 fourteen (14) of this Act, the court shall immediately appoint the department, an
51 agency, or an investigator to conduct this investigation and report. Any person,
52 including a juvenile court, who has gained relevant background information
53 concerning a minor person subject to an adoption petition shall, upon request,
54 fully cooperate with the conducting of the background information investigation
55 and report by disclosing any relevant background information, whether contained
56 in sealed records or not.

57 5. Any person conducting an investigation under subsections three (3) and four
58 (4) of this section may, in the investigation or subsequent report, include, utilize,
59 or rely upon any reports, studies, or examinations to the extent they are relevant.

60 6. Any person conducting an investigation under subsections three (3) and four
61 (4) may charge a fee which does not exceed the reasonable cost of the services
62 rendered and which is based on a sliding scale schedule relating to the
63 investigated person's ability to pay.

64 7. Any investigation or report required under this section shall not apply when
65 the person to be adopted is an adult.

66 8. Any person designated to make an investigation and report under this
67 section may request an agency or state agency, within or without this state, to
68 conduct a portion of the investigation or the report, as may be appropriate, and
69 to file a supplemental report of such investigation or report with the court.

70 9. The department may investigate, on its own initiative or on order of the
71 court, any placement made or adoption petition filed under this Act and may
72 report its resulting recommendation to the court.

73 10. The department or an agency may conduct any investigations required for
74 an interstate or interagency placement.

75 11. Any person who assists in or impedes the placement or adoption of a minor
76 person in violation of the provisions of this section shall be, upon conviction,
77 guilty of a misdemeanor, and shall be fined not more than one hundred dollars or
78 imprisoned in the county jail for not more than thirty days.

1 **SEC. 18. NEW SECTION. Report of expenditures.**

2 1. An adoption petitioner of a minor person shall file with the court, prior to
3 the adoption hearing, a full accounting of all disbursements of anything of value
4 paid or agreed to be paid by or on behalf of the petitioner in connection with the
5 petitioned adoption. This accounting shall be made by a report prescribed by the
6 court. The report shall be signed and verified by the petitioner and shall show any
7 expenses incurred in connection with:

- 8 a. The birth of the minor person to be adopted.
- 9 b. Placement of the minor person with the adoption petitioner.
- 10 c. Medical care received by the natural parents or the minor person during the
11 pregnancy or delivery of the minor person.
- 12 d. Any other services relating to the adoption or to the placement of the minor
13 person which were received by or on behalf of the petitioner, the natural parents,
14 or any other person, including legal fees.

15 The provisions of this subsection do not apply in a stepparent adoption.

16 2. A natural parent shall not receive any thing of value as a result of the
17 natural parent's child or former child being placed with and adopted by another
18 person, unless that thing of value is commensurate with some necessary service
19 provided the natural parent in relation to childbirth, child raising, or delivering
20 the child for adoption. Any person assisting in any way with the placement or
21 adoption of a minor person shall not charge a fee which is more than usual,
22 necessary, and commensurate with the services rendered. If the natural parent
23 receives any prohibited thing of value, if a person gives a prohibited thing of
24 value, or if a person charges a prohibited fee under this subsection, each such
25 person shall be, upon conviction, guilty of a misdemeanor, and shall be fined not
26 more than one hundred dollars or imprisoned in the county jail for not more than
27 thirty days.

1 **SEC. 19. NEW SECTION. Minimum residence of a minor child.** The adoption
2 of a minor person shall not be decreed until that person has lived with the
3 adoption petitioner for a minimum residence period of one hundred eighty days.
4 However, the court may waive this period if the adoption petitioner is a
5 stepparent or related to the minor person within the fourth degree of
6 consanguinity or may shorten this period upon good cause shown when the court
7 is satisfied that the adoption petitioner and the person to be adopted are suited to
8 each other.

1 **SEC. 20. NEW SECTION. Notice of adoption hearing.**

2 1. The court shall set the time and place of the adoption hearing prescribed in
3 section twenty-one (21) of this Act upon application of the petitioner. The court
4 may continue the adoption hearing if the notice prescribed in subsections two (2)
5 and three (3) of this section is given, except that such notice shall only be given at
6 least ten days prior to the date which has been set for the continuation of the
7 adoption hearing.

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

11 a. A guardian, guardian ad litem, and custodian of, and any person in a parent-
12 child relationship with the person to be adopted.

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

14 c. The department.

15 d. Any person who is designated to make an investigation and report under
16 section seventeen (17) of this Act.

17 e. Any other person who is required to consent under section sixteen (16) of
18 this Act.

19 3. A notice of the adoption hearing shall state the time, place, and purpose of
20 the hearing and shall be given according to the appropriate rules of civil
21 procedure. Proof of the giving of notice shall be filed with the court prior to the
22 adoption hearing and approved by the court prior to issuance of an adoption
23 decree under section twenty-two (22) of this Act.

1 **SEC. 21. NEW SECTION. Adoption hearing.**

2 1. An adoption hearing shall be conducted informally as a hearing in equity.
3 The hearing shall be reported.

4 2. Only those persons notified under section twenty (20) of this Act and their
5 witnesses and legal counsel or persons requested by the court to be present shall
6 be admitted to the court chambers while an adoption hearing is being conducted.
7 The adoption petitioner and the person to be adopted shall be present at the
8 hearing, unless the presence of either is excused by the court.

9 3. Any person admitted to the hearing shall be heard and allowed to present
10 evidence upon request and according to the manner in which the court conducts
11 the hearing.

1 **SEC. 22. NEW SECTION. Adoption decrees.**

2 1. At the conclusion of the adoption hearing, the court either shall:

3 a. Issue a final adoption decree;

4 b. Issue an interlocutory adoption decree; or,

5 c. Dismiss the adoption petition if the requirements of this Act have not been
6 met or if dismissal of the adoption petition is in the best interest of the person
7 whose adoption has been petitioned. Upon dismissal, the court shall determine
8 who is to be guardian or custodian of a minor child, including the adoption
9 petitioner if it is in the best interest of the minor person whose adoption has been
10 petitioned.

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

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

27 4. A final adoption decree terminates any parental rights, except those of a
28 spouse of the adoption petitioner, existing at the time of its issuance and
29 establishes the parent-child relationship between the adoption petitioner and the
30 person petitioned to be adopted. Unless otherwise specified by law, such parent-
31 child relationship shall be deemed to have been created at the birth of the child.

32 5. An interlocutory or a final adoption decree shall be entered with the clerk of
33 the court. Such decree shall set forth any facts of the adoption petition which
34 have been proven to the satisfaction of the court and any other facts considered
35 to be relevant by the court and shall grant the adoption petition. If so designated
36 in the adoption decree, the name of the adopted person shall be changed by
37 issuance of that decree. The clerk of the court shall, within thirty days of
38 issuance, deliver one certified copy of any adoption decree to the petitioner, one
39 copy of any adoption abstract to the department and any agency or person
40 making an independent placement who placed a minor person for adoption, and
41 one certification of adoption as prescribed in section one hundred forty-four
42 point nineteen (144.19) of the Code to the state registrar of vital statistics. Upon
43 receipt of the certification, the state registrar shall prepare a new birth certificate
44 pursuant to section one hundred forty-four point twenty-three (144.23) of the
45 Code and deliver to the parents named in the decree and any adult person
46 adopted by the decree a copy of the new birth certificate. The parents shall pay
47 the fee prescribed in section one hundred forty-four point forty-six (144.46) of the
48 Code. If the person adopted was born outside the state, the state registrar shall
49 forward the certification of adoption to the appropriate agency in the state of
50 birth. A copy of any interlocutory adoption decree vacation shall be delivered
51 and another birth certificate shall be prepared in the same manner as a
52 certification of adoption is delivered and the birth certificate was originally
53 prepared.

1 SEC. 23. NEW SECTION. **Appeal.** An appeal from any final order or decree
2 rendered under this Act shall be taken in the same manner as an appeal is taken
3 from a final judgment under the rules of civil procedure. However, a rule of civil
4 procedure provision regarding a minimum amount of value in controversy shall
5 not bar an adoption appeal. The supreme court shall review an adoption appeal
6 de novo.

1 SEC. 24. NEW SECTION. **Foreign and international adoptions.**

2 1. A decree terminating a parent-child relationship or establishing a parent-
3 child relationship by adoption which is issued pursuant to due process of law by a
4 court of any other jurisdiction, whether within or without the United States, shall
5 be recognized in this state.

6 2. If there is a proxy adoption in the minor person's country of origin, a further
7 adoption must occur in the state where the adopting parents reside in accordance
8 with the adoption laws of that state.

9 3. The department may provide necessary assistance to an eligible citizen of
10 Iowa who desires to, in accordance with the immigration laws of the United
11 States, make an international adoption. For any such assistance the department
12 may charge a fee which does not exceed the reasonable cost of services rendered
13 and which is based on a sliding scale relating to the investigated person's ability
14 to pay.

15 4. Any rules of the department relating to placement of a minor child for
16 adoption which are more restrictive than comparable rules of agencies making
17 international placements and laws of the United States shall not be enforced by
18 the department in an international adoption.

1 **SEC. 25. NEW SECTION. Termination and adoption record.**

2 1. Any information compiled under subparagraphs one (1) and two (2) of
3 paragraph c of subsection one (1) of section seventeen (17) of this Act shall be
4 made available at any time by the clerk of the court, the department, or any
5 agency which made the placement to:

6 a. The adopting parents.
7 b. The adopted person who is an adult.
8 c. Any person approved by the department if the person uses this information
9 solely for the purposes of conducting a legitimate research project or of treating a
10 patient in a medical facility.

11 2. The permanent termination of parental rights record of the juvenile court
12 under division one (I) of this Act and the permanent adoption record of the court
13 shall be sealed by the clerk of the juvenile court and the clerk of court, as
14 appropriate, when they are complete and after the time for appeal has expired.
15 All papers and records pertaining to a termination of parental rights under
16 division one (I) of this Act and to an adoption, whether a part of the permanent
17 termination and adoption records of the juvenile court and of the court or on file
18 with a guardian, guardian ad litem, custodian, person who placed a minor person,
19 or the department shall not be open to inspection and the identity of the natural
20 parents of an adopted person shall not be revealed. However, an agency involved
21 in placement shall contact the adopting parents or the adult adopted child
22 regarding eligibility of the adopted child for benefits based on entitlement of
23 benefits or inheritance from the terminated natural parents. Also, the clerk of the
24 court shall, upon application to and order of the court for good cause shown,
25 open the permanent adoption record of the court for the adopted person who is
26 an adult and reveal the names of either or both of the natural parents. A natural
27 parent may file an affidavit requesting that the court reveal or not reveal the
28 parent's name. The court shall consider any such affidavit in determining whether
29 there is good cause to order opening of the records. If the adopted person who
30 applies for revelation of the natural parents' name has a sibling who is a minor
31 and who has been adopted by the same parents, the court shall deny such
32 application on the grounds that revelation to the applicant may also indirectly
33 and harmfully permit the same revelation to the applicant's minor sibling. To
34 facilitate the natural parents in filing such affidavit, the department shall, upon
35 request of such parent, file an affidavit in the court in which the adoption records
36 have been sealed.

37 3. Notwithstanding any other provision in this section, the juvenile court or
38 court may, upon competent medical evidence, open termination or adoption
39 records if opening is shown to be necessary to save the life of or prevent
40 irreparable physical harm to an adopted person or the person's offspring. The
41 juvenile court or court shall make every reasonable effort to prevent the identity
42 of the natural parents from becoming revealed under this subsection to the
43 adopted person. The juvenile court or court may, however, permit revelation of
44 the identity of the natural parents to medical personnel attending the adopted
45 person or the person's offspring. These medical personnel shall make every
46 reasonable effort to prevent the identity of the natural parents from becoming
47 revealed to the adopted person.

48 4. Any person, other than the adopting parents or the adopted person, who
49 discloses information in violation of the provisions of this section shall be, upon
50 conviction, guilty of a misdemeanor, and shall be fined not more than one
51 hundred dollars or imprisoned in the county jail for not more than thirty days.

52

DIVISION III

1 SEC. 26. 1. Any termination of parental rights or adoption proceedings
2 pending on the effective date of this Act shall not be affected by the provisions of
3 this Act.

4 2. The department may allow access to adoption records held by it or an
5 agency if:

6 a. These records were compiled prior to the effective date of this Act and do
7 not or can be made to not reveal the identity of the natural parents of an adopted
8 person; and,

9 b. The person gaining access to these records uses them solely for the purposes
10 of conducting a legitimate research project or of treating a patient in a medical
11 facility.

12 3. This Act shall take effect on January 1, 1977.

1 SEC. 27. Section two hundred thirty-one point three (231.3), unnumbered
2 paragraph two (2), Code 1975, is amended to read as follows:

3 The judge of the juvenile court may appoint a referee in juvenile court
4 proceedings. The referee shall be qualified for his duties by training and
5 experience and shall hold office at the pleasure of the judge. The compensation of
6 the referee shall be fixed by the judge. The judge may direct that any case or class
7 of cases arising under chapter 232 or division one (I) of this Act shall be heard in
8 the first instance by the referee in the manner provided for the hearing of cases
9 by the court.

1 SEC. 28. Section two hundred thirty-two point two (232.2), subsections eight
2 (8) and nine (9), Code 1975, are amended by striking the subsections and
3 inserting in lieu thereof the following:

4 8. "Guardian" means guardian as defined in subsection seven (7) of section two
5 (2) of this Act.

6 9. "Custodian" means custodian as defined in subsection eight (8) of section
7 two (2) of this Act.

1 SEC. 29. Section two hundred thirty-two point twelve (232.12), Code 1975, is
2 amended to read as follows:

3 **232.12 Other issues adjudicated.** When it appears during the course of any
4 trial, hearing, or proceeding that some action or remedy other than or in addition
5 to those indicated by the application or pleadings appears appropriate, the court
6 may, provided all necessary parties consent, proceed to hear and determine the
7 additional or other issues as though originally properly sought and pleaded.
8 *However, if termination of parental rights appears to be the appropriate action or*
9 *remedy, the provisions of division one (I) of this Act must be followed.*

1 SEC. 30. Section two hundred thirty-two point twenty-seven (232.27), Code
2 1975, is amended to read as follows:

3 **232.27 Hearings to court.** Hearings on any matter shall be without a jury
4 and may be conducted in an informal manner. Hearings may be continued from
5 time to time and in the interim the court may make such orders as it deems in the
6 best interests of the child. The court shall exclude the general public from
7 hearings and shall admit the news media, except in those cases which in the
8 opinion of the court the best interest of the child and the public are served by a
9 private hearing. The court shall also admit those persons who in the discretion of
10 the court have a direct interest in the case or in the work of the court; except that
11 if the hearing involves a child charged by information or indictment with the
12 commission of a felony, persons having a legitimate interest in the proceedings,
13 including responsible representatives of public information media, shall not be
14 excluded from such hearings. The court may require the presence of witnesses
15 deemed necessary to the disposition of the petition. ~~Adoption hearings shall be~~
16 ~~conducted in accordance with the provisions of laws relating to adoption.~~

1 SEC. 31. Section two hundred thirty-two point twenty-nine (232.29), Code
2 1975, is amended to read as follows:

3 **232.29 County attorney to present evidence.** The county attorney shall
4 present the evidence upon request of the court in all proceedings ~~except adoptions.~~

1 SEC. 32. Section two hundred thirty-two point thirty-six (232.36), Code 1975,
2 is amended to read as follows:

3 **232.36 Orders continue to majority of child.** All orders for supervision,
4 custody, or commitment shall be enforced until the minor reaches the age of
5 eighteen years unless otherwise specified by the court. All orders shall be
6 reviewed by the court at least annually unless the court's jurisdiction has been
7 terminated. The court may make on its own motion or on the motion of an
8 interested party and after notice to the parties and a hearing some other
9 disposition of the case so long as the court retains jurisdiction. *However, if*
10 *termination of parental rights is utilized as another disposition of the case, the*
11 *provisions of division one (1) of this Act must be followed.*

1 SEC. 33. Section two hundred thirty-two point fifty-one (232.51), unnumbered
2 paragraph one (1), Code 1975, is amended to read as follows:

3 Whenever legal custody of a minor is transferred by the court or whenever the
4 minor is placed by the court with someone other than the parents or whenever a
5 minor is given physical or mental examinations or treatment under order of the
6 court and no provision is otherwise made by law for payment for the care,
7 examination, or treatment of the minor, the costs shall be charged upon the funds
8 of the county in which the proceedings are held upon certification of the judge to
9 the board of supervisors. ~~Except where the parent-child relationship is terminated,~~
10 ~~the~~ The court may inquire into the ability of the parents to support the minor and
11 after giving the parents a reasonable opportunity to be heard may order the
12 parents to pay in the manner and to whom the court may direct, such sums as
13 will cover in whole or in part the cost of care, examination, or treatment of the
14 minor. If the parents fail to pay the sum without good reason, the parents may be
15 proceeded against for contempt or the court may inform the county attorney who
16 shall proceed against the parents to collect the unpaid sums or both.

1 SEC. 34. Section two hundred thirty-two point sixty-three (232.63), Code 1975,
2 as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter
3 one hundred forty-two (142), section ten (10), is amended to read as follows:

4 **232.63 When jurisdiction is exclusive.** The juvenile court shall have exclusive
5 original jurisdiction, only, in proceedings concerning any child alleged to be
6 delinquent, or a child alleged to be in need of assistance, and in proceedings for
7 termination of parental rights under ~~sections 232.41 through 232.50~~ *division one (1)*
8 *of this Act*, and in proceedings concerning any minor alleged to have been a
9 delinquent prior to having become eighteen years of age except as otherwise
10 provided by law.

1 SEC. 35. Section two hundred thirty-five point three (235.3), subsection three
2 (3), Code 1975, is amended to read as follows:

3 3. Make such rules and regulations as may be necessary or advisable for the
4 supervision of the private child-caring agencies or officers thereof which the state
5 director is empowered to license, inspect and supervise; ~~which rules and~~
6 ~~regulations shall provide that in dealing with any child, any officer, employee or~~
7 ~~agency so dealing shall take into consideration the religious faith or affiliations of~~
8 ~~the child or its parents, and that in placing such child it shall be, as far as~~
9 ~~practicable, placed in the home or the care and custody of some person holding~~
10 ~~the same religious faith as the parents of such child, or with or through some~~
11 ~~agency or institution controlled by persons of like religious faith with the parents~~
12 ~~of said child.~~

1 SEC. 36. Section two hundred thirty-eight point twenty-four (238.24),
2 unnumbered paragraph two (2), Code 1975, is amended to read as follows:

3 Nothing herein shall prohibit the state director from disclosing such facts to
4 such proper persons as may be in the interest of a child cared for by such agency
5 or in the interest of the child's parents or foster parents and not inimical to the
6 child, or as may be necessary to protect the interests of the child's prospective
7 foster parents. *However, disclosure of termination and adoption records shall be*
8 *governed by the provisions of section twenty-five (25) of this Act.*

1 SEC. 37. Section two hundred thirty-eight point thirty-two (238.32), subsection
2 one (1), is amended to read as follows:

3 1. Receive ~~neglected, dependent,~~ *children in need of assistance* or delinquent
4 children who are under eighteen years of age, under commitment from the
5 juvenile court, and control and dispose of them subject to the provisions of
6 chapter 232 *and of division one (I) of this Act.*

1 SEC. 38. Sections two hundred thirty-two point forty (232.40) through two
2 hundred thirty-two point fifty (232.50), inclusive, section two hundred thirty-two
3 point sixty (232.60), and sections two hundred thirty-eight point twenty-five
4 (238.25) through two hundred thirty-eight point twenty-nine (238.29), inclusive,
5 Code 1975, are repealed.

1 SEC. 39. Section four hundred twenty-two point nine (422.9), subsection two
2 (2), paragraph d, Code 1975, is amended to read as follows:

3 d. Add the amount by which expenses paid or incurred in connection with the
4 adoption of a child by the taxpayer exceed three percent of the net income of the
5 taxpayer, or of the taxpayer and spouse in the case of a joint return. The expenses
6 may include medical and hospital expenses of the natural mother which are
7 incident to the child's birth and are paid by the taxpayer, welfare agency fees,
8 legal fees, and all other fees and costs relating to the adoption of a child if the
9 child is placed by a child-placing agency licensed under chapter 238 *or by a person*
10 *making an independent placement according to the provisions of chapter six hundred*
11 *(600) of the Code.*

1 SEC. 40. Section six hundred thirty-three point two hundred twenty-three
2 (633.223), subsections two (2) and three (3), Code 1975, are amended by striking
3 the subsections.

1 SEC. 41. Sections six hundred point one (600.1) through six hundred point ten
2 (600.10), Code 1975, are amended by striking the sections and inserting in lieu
3 thereof division two (II) of this Act.

1 SEC. 42. The Code editor shall codify division one (I) of this Act as a separate
2 chapter of the Code.

Approved June 28, 1976