

CHAPTER 1145**JUVENILE COURT JURISDICTION — ADOPTION
AND TERMINATION OF PARENTAL RIGHTS***S.F. 421*

AN ACT to extend the jurisdiction of the juvenile court to include adoption and termination of parental rights proceedings.

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

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

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

Sec. 2. Section 600.1, Code 1999, is amended to read as follows:

600.1 CONSTRUCTION.

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

Sec. 3. Section 600.3, Code 1999, is amended to read as follows:

600.3 COMMENCEMENT OF ADOPTION ACTION — JURISDICTION — FORUM NON CONVENIENS.

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

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

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

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

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

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

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

Sec. 4. Section 600.4, subsection 3, paragraph c, Code 1999, is amended to read as follows:

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

Sec. 5. Section 600.5, unnumbered paragraph 1, Code 1999, is amended to read as follows:
An adoption petition shall be signed and verified by the petitioner, shall be filed with the juvenile court or court designated in section 600.3, and shall state:

Sec. 6. Section 600.5, subsection 7, Code 1999, is amended to read as follows:

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

Sec. 7. Section 600.7, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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

Sec. 8. Section 600.7, subsection 2, paragraphs a and b, Code 1999, are amended to read as follows:

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

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

Sec. 9. Section 600.7, subsections 3 and 4, Code 1999, are amended to read as follows:

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

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

Sec. 10. Section 600.8, subsection 2, paragraph a, Code 1999,¹ is amended to read as follows:

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

Sec. 11. Section 600.8, subsections 4, 7, 8, 9, and 12, Code 1999, are amended to read as follows:

4. A postplacement investigation and a background information investigation and the reports of these investigations shall be completed and the reports filed with the juvenile court or court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the juvenile court or court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement and background information investigations and reports. In addition to filing the background information report with the juvenile court or court prior to the holding of the adoption hearing, the department, agency, or investigator appointed to

¹ See Code Supplement 1999 for amendments to this section by 1999 Iowa Acts, chapter 138, §1, 2

conduct the background information investigation shall complete the background information investigation and report and furnish a copy to the adoption petitioner within thirty days after the filing of the adoption petition. Any person, ~~including a juvenile court~~, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully co-operate with the conducting of the background information investigation and report by disclosing any relevant background information, whether contained in sealed records or not.

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

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

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

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

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

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

Sec. 13. Section 600.10, Code 1999, is amended to read as follows:

600.10 MINIMUM RESIDENCE OF A MINOR CHILD.

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

Sec. 14. Section 600.11, subsections 1 and 3, Code 1999, are amended to read as follows:

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

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

Sec. 15. Section 600.12, subsections 2 and 3, Code 1999, are amended to read as follows:

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

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

Sec. 16. Section 600.12A, subsections 1 and 2, Code 1999, are amended to read as follows:

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

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

Sec. 17. Section 600.13, subsections 1, 2, 3, 5, and 6, Code 1999,² are amended to read as follows:

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

a. Issue a final adoption decree;

b. Issue an interlocutory adoption decree; or,

c. Dismiss the adoption petition if the requirements of this Act³ have not been met or if dismissal of the adoption petition is in the best interest of the person whose adoption has been petitioned. Upon dismissal, the juvenile court or court shall determine who is to be guardian or custodian of a minor child, including the adoption petitioner if it is in the best interest of the minor person whose adoption has been petitioned.

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

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

5. An interlocutory or a final adoption decree shall be entered with the clerk of the court. Such decree shall set forth any facts of the adoption petition which have been proven to the satisfaction of the juvenile court or court and any other facts considered to be relevant by the juvenile court or court and shall grant the adoption petition. If so designated in the adoption decree, the name of the adopted person shall be changed by issuance of that decree. The

² See Code Supplement 1999 for an amendment to this section that struck subsection 6 by 1999 Iowa Acts, chapter 43, §2

³ See chapter 1232, §83 herein

clerk of the court shall, within thirty days of issuance, deliver one certified copy of any adoption decree to the petitioner, one copy of any adoption decree to the department and any agency or person making an independent placement who placed a minor person for adoption, and one certification of adoption as prescribed in section 144.19 to the state registrar of vital statistics. Upon receipt of the certification, the state registrar shall prepare a new birth certificate pursuant to section 144.23 and deliver to the parents named in the decree and any adult person adopted by the decree a copy of the new birth certificate. The parents shall pay the fee prescribed in section 144.46. If the person adopted was born outside the state, the state registrar shall forward the certification of adoption to the appropriate agency in the state or foreign nation of birth. A copy of any interlocutory adoption decree vacation shall be delivered and another birth certificate shall be prepared in the same manner as a certification of adoption is delivered and the birth certificate was originally prepared.

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

Sec. 18. Section 600.15, subsection 1, paragraphs a and b, Code 1999, are amended to read as follows:

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

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

Sec. 19. Section 600.16A, subsection 2, paragraphs b and c, Code 1999, are amended to read as follows:

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

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

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

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

Sec. 20. Section 600.16A, subsection 3, paragraph b, unnumbered paragraph 3, Code 1999, is amended to read as follows:

Notwithstanding the provisions of this subsection, if the adult adopted person has a sibling who is a minor and who has also been adopted by the same parents, the department,

⁴ See Code Supplement 1999 for an amendment to this section that struck subsection 6 by 1999 Iowa Acts, chapter 43, §2

the clerk of court, or the agency which made the placement may deny the request of either the adult adopted person or the biological parent to open the adoption records and to reveal the identities of the parties pending determination by the juvenile court or court that there is good cause to open the records pursuant to subsection 2.

Sec. 21. Section 600.16A, subsection 4, Code 1999, is amended to read as follows:

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

Sec. 22. Section 600.18, unnumbered paragraph 1, Code 1999, is amended to read as follows:

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

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

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

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

Approved April 26, 2000

CHAPTER 1146

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 2424

AN ACT updating the Iowa Code references to the Internal Revenue Code, amending the earned income credit, amending requirements for nonresident taxpayers, providing tax benefits to military personnel in hazardous duty areas, and providing effective and retroactive applicability dates.

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

Section 1. Section 15.335, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. The credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying