

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 733 Session of
2001

INTRODUCED BY BLAUM, DALLY, COY, NAILOR, B. SMITH, TIGUE,
LAUGHLIN, WALKO, STABACK, BARRAR, L. I. COHEN, YOUNGBLOOD,
MUNDY, PRESTON, STEELMAN, McCALL, SHANER, GRUCELA, FRANKEL,
WANSACZ, C. WILLIAMS, HARHAI AND YUDICHAK, FEBRUARY 14, 2001

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 14, 2001

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for adoption
3 definitions, for relinquishment of parental rights, for
4 adoption hearings, for adoption counseling, for adoption
5 reports, for consent to adoption and for adoption medical
6 history information.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The definition of "agency" in section 2102 of
10 Title 23 of the Pennsylvania Consolidated Statutes is amended
11 and the section is amended by adding definitions to read:

12 § 2102. Definitions.

13 The following words and phrases when used in this part shall
14 have, unless the context clearly indicates otherwise, the
15 meanings given to them in this section:

16 * * *

17 "Adoption-related counseling services." Services offered by
18 an agency, approved by the department, which, at a minimum,
19 provide a parent with assistance in understanding the adoption

1 process; the parent's rights and obligations, the consequences
2 of a decision to relinquish parental rights or to consent to an
3 adoption; and the alternatives to a relinquishment, consent or
4 adoption.

5 "Agency." [Any incorporated or unincorporated] An agency
6 operated by a public or private organization, corporation,
7 society, institution or [other] entity, [public or voluntary,]
8 which [may receive or provide for the care of children,
9 supervised by the Department of Public Welfare and providing]
10 provides adoption services in accordance with standards
11 established by the [department.] Department of Public Welfare.
12 The term includes a county agency.

13 * * *

14 "County agency." As defined in section 6303(a) (relating to
15 definitions).

16 * * *

17 "Putative father." The alleged father of a child conceived
18 or born out of wedlock.

19 Section 2. Sections 2501(a), 2502(a), 2503(b)(3) and (d),
20 2504(a) and (c) and 2505 of Title 23 are amended to read:

21 § 2501. Relinquishment to agency.

22 (a) Petition.--When any child under the age of 18 years has
23 been in the care of an agency for a minimum period of three days
24 or, whether or not the agency has the physical care of the
25 child, the agency has received a written notice of the present
26 intent to transfer to it custody of the child, executed by the
27 parent, the parent or parents of the child may petition the
28 court for permission to relinquish forever all parental rights
29 and duties with respect to their child. The petition must
30 include an acknowledgment in writing by the parent of all of the

1 following:

2 (1) Adoption-related counseling services have been
3 offered to the parent.

4 (2) If the parent requested adoption-related counseling
5 services, whether the adoption-related counseling services
6 have been provided.

7 (3) If adoption-related counseling services were
8 provided, the name and address of the agency which provided
9 them.

10 * * *

11 § 2502. Relinquishment to adult intending to adopt child.

12 (a) Petition.--When any child under the age of 18 years has
13 been for a minimum period of 30 days in the exclusive care of an
14 adult or adults who have filed a report of intention to adopt
15 required by section 2531 (relating to report of intention to
16 adopt), the parent or parents of the child may petition the
17 court for permission to relinquish forever all parental rights
18 to their child. The petition must include an acknowledgment in
19 writing by the parent of all of the following:

20 (1) Adoption-related counseling services have been
21 offered to the parent.

22 (2) If the parent requested adoption-related counseling
23 services, whether the adoption-related counseling services
24 have been provided.

25 (3) If adoption-related counseling services were
26 provided, the name and address of the agency which provided
27 them.

28 * * *

29 § 2503. Hearing.

30 * * *

1 (b) Notice.--

2 * * *

3 (3) The copy of the notice which is given to the
4 putative father shall state that his rights may also be
5 subject to termination pursuant to subsection (d) [if he
6 fails to file either an acknowledgment of paternity or claim
7 of paternity pursuant to section 5103 (relating to
8 acknowledgment and claim of paternity) and fails to either
9 appear at the hearing for the purpose of objecting to the
10 termination of his rights or file a written objection to such
11 termination with the court prior to the hearing].

12 * * *

13 (d) Putative father.--If a putative father will not file a
14 petition to voluntarily relinquish his parental rights pursuant
15 to section 2501 (relating to relinquishment to agency) or 2502
16 (relating to relinquishment to adult intending to adopt
17 child)[,] and has been given notice of the hearing being held
18 pursuant to this section [and fails to either appear at that
19 hearing for the purpose of objecting to termination of his
20 parental rights or file a written objection to such termination
21 with the court prior to the hearing and has not filed an
22 acknowledgment of paternity or claim of paternity pursuant to
23 section 5103], the court may enter a decree terminating the
24 parental rights of the putative father pursuant to subsection
25 (c)[.] if he fails to do any of the following:

26 (1) File with the court, prior to the hearing, a written
27 objection to termination of his parental rights.

28 (2) Appear at the hearing for the purpose of objecting
29 to the termination of his parental rights.

30 (3) Provide substantial financial support for the child.

1 (4) Make substantial and ongoing provision for the
2 child's care.

3 * * *

4 § 2504. Alternative procedure for relinquishment.

5 (a) Petition to confirm consent to adoption.--If the parent
6 or parents of the child have executed consents to an adoption as
7 required by section 2711 (relating to consents necessary to
8 adoption) but have failed for a period of 40 days after
9 executing the consent to file or proceed with the petition for
10 voluntary relinquishment of parental rights provided for in this
11 subchapter, the intermediary may petition the court to hold a
12 hearing for the purpose of confirming the intention of the
13 parent or parents to voluntarily relinquish their rights and
14 duties as evidenced by the consent or consents to the adoption,
15 the original of which shall be attached to the petition. In the
16 case where there is no intermediary, the adoptive parent or
17 parents may file the petition. The petition must include an
18 acknowledgment in writing by the parent of all of the following:

19 (1) Adoption-related counseling services have been
20 offered to the parent.

21 (2) If the parent requested adoption-related counseling
22 services, whether the adoption-related counseling services
23 have been provided.

24 (3) If adoption-related counseling services were
25 provided, the name and address of the agency which provided
26 them.

27 * * *

28 (c) Putative father.--If a putative father will not execute
29 a consent to an adoption as required by section 2711[,] and has
30 been given notice of the hearing being held pursuant to this

1 section [and fails to either appear at that hearing for the
2 purpose of objecting to termination of his parental rights or
3 file a written objection to such termination with the court
4 prior to the hearing and has not filed an acknowledgment of
5 paternity or claim of paternity pursuant to section 5103
6 (relating to acknowledgment and claim of paternity)], the court
7 may enter a decree terminating the parental rights of the
8 putative father pursuant to subsection (b)[.] if he fails to do
9 any of the following:

10 (1) File with the court, prior to the hearing, a written
11 objection to termination of his parental rights.

12 (2) Appear at the hearing for the purpose of objecting
13 to the termination of his parental rights.

14 (3) Provide substantial financial support for the child.

15 (4) Make substantial and ongoing provision for the
16 child's care.

17 * * *

18 § 2505. [Counseling] Adoption-related counseling services.

19 (a) List [of counselors].--Any hospital or other facility
20 providing maternity care shall provide a list of [available
21 counselors and] agencies approved to provide adoption-related
22 counseling services compiled pursuant to subsection (b) to its
23 maternity patients who are known to be considering
24 relinquishment or termination of parental rights or consent to
25 adoption, pursuant to this part. The patient shall sign an
26 acknowledgment of receipt of such list prior to discharge, a
27 copy of which receipt shall be provided to the patient.

28 (b) Compilation of list.--The [court] Department of Public
29 Welfare shall compile a list, on a county-by-county basis, of
30 [qualified counselors and] agencies approved by the department

1 to provide adoption-related counseling services [(including all
2 adoption agencies) which are available] to [counsel] natural
3 parents within the county who are contemplating relinquishment
4 or termination of parental rights or consent to an adoption
5 pursuant to this part. Such list shall be distributed to every
6 court of common pleas, agency, hospital or [other] facility
7 providing maternity care within the county [and]. The department
8 shall [be made] make the list available upon request to any
9 [intermediary or licensed health care professional] person.

10 (c) Court determination and referral.--Prior to entering a
11 decree of termination of parental rights pursuant to section
12 2503 (relating to hearing) or 2504 (relating to alternative
13 procedure for relinquishment), [if the parent whose rights are
14 to be terminated is present in court,] the court shall [inquire]
15 determine whether [he or she] the parent has [received] been
16 offered adoption-related counseling [concerning the termination
17 and the alternatives thereto from an agency or from a qualified
18 counselor listed by a court pursuant to subsection (b)]
19 services. If the parent has not [received such] been offered
20 adoption-related counseling services, the court [may, with the
21 parent's consent, refer] shall provide the parent [to an agency
22 or qualified counselor listed by a court] with the list pursuant
23 to subsection (b) [for the purpose of receiving such
24 counseling]. In no event shall the court delay the completion of
25 any hearing pursuant to section 2503 or 2504 for more than 15
26 days in order to provide for such counseling.

27 (d) Application [for counseling].--Any of the following may
28 apply to a county agency located in the county where the parent
29 resides for referral to an agency listed under subsection (b)
30 for the purpose of receiving adoption-related counseling

1 services, paid from the fund under subsection (e):

2 (1) A parent, or an intermediary acting on behalf of the
3 parent, who is contemplating:

4 (i) relinquishment of parental rights; or

5 (ii) execution of a consent to adoption.

6 (2) A parent, or an intermediary acting on behalf of the
7 parent, who has:

8 (i) filed a petition to relinquish [his or her]
9 parental rights[,]; or [has]

10 (ii) executed a consent to adoption[, and [is in
11 need of] has not been offered adoption-related counseling
12 [concerning the relinquishment or consent, and the
13 alternatives thereto, may apply to the court for referral
14 to an agency or qualified counselor listed by a court
15 pursuant to subsection (b) for the purpose of receiving
16 such counseling. The court, in its discretion, may make
17 such a referral where it is satisfied that this
18 counseling would be of benefit to the parent] services.

19 (d.1) County agency.--

20 (1) Within three business days of receiving the
21 application, the county agency must notify the applicant of
22 approval or disapproval of the application. Disapproval must
23 be accompanied by reasons. Failure to comply with this
24 paragraph shall be deemed approval of the application.

25 (2) The county agency shall advise an approved applicant
26 of procedures to obtain adoption-related counseling services.

27 (3) The frequency of adoption-related counseling
28 services shall be determined by the county in accordance with
29 regulations, which take into account the needs of the parent,
30 promulgated by the department.

1 (e) [Counseling fund] Funds.--

2 (1) Except as [hereinafter] provided in paragraph (2),
3 each report of intention to adopt filed pursuant to section
4 2531 (relating to report of intention to adopt) shall be
5 accompanied by a filing fee in the amount of \$75 which shall
6 be [paid into a segregated fund established by] transferred
7 to the county[. The county may also make supplemental
8 appropriations to the fund] agency to pay for adoption-
9 related counseling services. All costs of adoption-related
10 counseling services provided pursuant to subsection (c) or
11 (d) to individuals who are unable to pay for such counseling
12 shall be paid from the fund. However, costs related to
13 adoption-related counseling services for a parent whose child
14 is adjudicated dependent shall be considered a reimburseable
15 expenditure of the county agency as an adoption service, with
16 reimbursement to the county agency by the department of the
17 reasonable costs, under section 704.1(a)(6) of the act of
18 June 13, 1967 (P.L.31, No.21), known as the Public Welfare
19 Code.

20 (2) No filing fee may be exacted under this subsection
21 with respect to the adoption of a special needs child who
22 would be eligible for adoption assistance pursuant to
23 regulations promulgated by the [Department of Public Welfare]
24 department. In addition, the court may reduce or waive the
25 fee in cases of demonstrated financial hardship.

26 (3) On an annual basis, the county agency shall report
27 to the department all of the following:

28 (i) The amount of money made available to the county
29 agency through filing fees established in paragraph (1)
30 and other sources of funding for adoption-related

counseling services.

(ii) The number of requests to the county agency for referral to adoption-related counseling services.

(iii) The amount paid by the county agency for adoption-related counseling services.

(iv) The estimated per-parent cost of adoption-related counseling services.

Section 3. Section 2533(d) of Title 23 is amended by adding a paragraph to read:

§ 2533. Report of intermediary.

* * *

(d) Permissible reimbursement of expenses.--Payments made by the adoptive parents to an intermediary or a third party for reimbursement of the following expenses, calculated without regard to the income of the adoptive parents, are permissible and are not in violation of 18 Pa.C.S. § 4305 (relating to dealing in infant children):

* * *

(3.1) Reasonable expenses incurred by the natural parent for adoption-related counseling services.

* * *

Section 4. Sections 2711(c) and (d) and 2909(c) of Title 23 are amended to read:

§ 2711. Consents necessary to adoption.

* * *

(c) Validity of consent.--

(1) No consent shall be valid if it was executed prior to or within 72 hours after the birth of the child.

(2) A putative father may execute a consent at any time after receiving notice of the expected or actual birth of the

1 child.

2 (3) Any consent given outside this Commonwealth shall be
3 valid for purposes of this section if it was given in
4 accordance with the laws of the jurisdiction where it was
5 executed.

6 (4) A consent to an adoption under subsection (a)(3) may
7 only be revoked within 30 days of the signing of the consent.
8 Any other consent to an adoption may only be revoked prior to
9 the earlier of either the entry of a decree of termination of
10 parental rights or the entry of a decree of adoption. The
11 revocation of a consent shall be in writing and shall be
12 served upon the agency or adult to whom the child was
13 relinquished.

14 (5) The consent of a parent of an adoptee who has not
15 reached the age of 18 shall not be valid unless the parent
16 provides a written acknowledgment that adoption-related
17 counseling services have been offered.

18 (d) Contents of consent.--

19 (1) The consent of a parent of an adoptee under 18 years
20 of age shall set forth the name, age and marital status of
21 the parent, the relationship of the consenter to the child,
22 the name of the other parent or parents of the child and the
23 following:

24 I hereby voluntarily and unconditionally consent to
25 the adoption of the above named child.

26 I have been offered adoption-related counseling
27 services prior to my signing this consent.

28 I understand that by signing this consent I indicate
29 my intent to permanently give up all rights to this
30 child.

1 I understand such child will be placed for adoption.

2 I understand I may, within 30 days of the signing of
3 this consent, revoke this consent to permanently give up
4 all rights to this child by placing the revocation in
5 writing and serving it upon the agency or adult to whom
6 the child was relinquished.

7 I understand I may not revoke this consent if 30 days
8 have elapsed since I signed this consent, or after a
9 court has entered a decree confirming this consent or
10 otherwise terminating my parental rights to this child.
11 Even if a decree has not been entered terminating my
12 parental rights I may not revoke this consent after a
13 decree of adoption of this child is entered.

14 I have read and understand the above and I am signing
15 it as a free and voluntary act.

16 (2) The consent shall include the date and place of its
17 execution and names and addresses and signatures of at least
18 two persons who witnessed its execution and their
19 relationship to the consenter. The consent shall indicate the
20 name and address of the agency which provided requested
21 adoption-related counseling services.

22 § 2909. Medical history information.

23 * * *

24 (c) Availability of information forms.--The [Department of
25 Public Welfare] department shall[, upon request, make available]
26 distribute to courts, adoption agencies and individuals medical
27 history information forms that enable parents whose rights have
28 been terminated to register and update medical history
29 information with the Department of Public Welfare and with the
30 court which entered the decree of termination.

1 * * *

2 Section 5. This act shall apply to actions initiated on or
3 after the effective date of this act.

4 Section 6. This act shall take effect in 60 days.