

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 213

Session of  
1979

INTRODUCED BY MR. SCHWEDER, MRS. E. Z. TAYLOR, MESSRS. DiCARLO,  
KLINGAMAN, POTT AND BERSON, FEBRUARY 6, 1979

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 13, 1979

## AN ACT

1 Amending the act of July 24, 1970 (P.L.620, No.208), entitled  
2 "An act providing for the adoption of minors and adults and  
3 for the termination of certain parent-child relationships;  
4 providing for jurisdiction of courts; providing for recording  
5 of foreign decrees of adoption; and containing provisions for  
6 procedures, decrees and records in all matters relating  
7 thereto," incorporating additional provisions relating to due  
8 process, notice and best interest of the adoptee; further  
9 providing for relinquishment of parental rights and providing  
10 for certain options.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 102, act of July 24, 1970 (P.L.620,  
14 No.208), known as the "Adoption Act," is amended to read:

15 Section 102. Definitions.--As used in this act:

16 "Abandoned child" means the child is found under such  
17 circumstances that the identity or whereabouts of the parent or  
18 parents is unknown and cannot be ascertained by diligent  
19 searching and the parent or parents do not claim the child  
20 within three months after the child is found.

21 [(1)] "Adoptee" means an individual proposed to be adopted.

1        [(2)] "Agency" means any incorporated or unincorporated  
2 organization, society, institution, or other entity, public or  
3 voluntary, which may receive or provide for the care of  
4 children, supervised by the Pennsylvania Department of Public  
5 Welfare and providing adoption services in accordance with  
6 standards established by the department.

7        "Child" means a son or daughter whether by birth or adoption  
8 who is under the age of eighteen.

9        [(3)] "Clerk" means the clerk of the division of the court  
10 of common pleas having jurisdiction over voluntary  
11 relinquishment, involuntary termination and adoption  
12 proceedings.

13        [(4)+ "Court" means the court of common pleas.] <—

14        "COURT" MEANS THE FAMILY COURT DIVISION OF THE COURT OF <—  
15 COMMON PLEAS IN A COUNTY WHERE SUCH A DIVISION EXISTS; IN ALL  
16 OTHER COUNTIES "COURT" MEANS THE COURT OF COMMON PLEAS.

17        "Custody" means the legal status conferred by court order.

18        "Guardian" means an individual appointed by the court for the  
19 purposes of the care and management of a person with the duty  
20 and authority to make decisions permanently affecting his or her  
21 health and development.

22        [(5)] "Intermediary" means any person or persons or agency  
23 acting between the parent or parents and the proposed adoptive  
24 parent or parents in arranging an adoption placement.

25        "Local authorities" means county institution district or its  
26 successor.

27        "Minor" means an unmarried child under the age of eighteen.

28        [(6)] "Parent" [includes adoptive parent] means the natural,  
29 presumptive, or adoptive mother or father of a child.

30        Section 2. The act is amended by adding sections to read:

1     Section 104. Purpose.--The purpose of this act is threefold:

2     (1) To provide judicial means for voluntary or involuntary  
3     termination of parental rights and responsibilities in instances  
4     where children can no longer receive proper care from their  
5     parents;

6     (2) To vest court ordered custody of such children in an  
7     agency or with an individual pending adoption; and

8     (3) To establish the procedure to be followed in processing  
9     an adoption.

10    Section 105. Philosophy.--Implicit in this act is the  
11    philosophy that:

12    (1) The State, through the local authorities, should make a  
13    timely offer of service wherever possible in order to strengthen  
14    and preserve family life; and

15    (2) A termination of parental rights and responsibilities is  
16    so important and drastic that it requires judicial  
17    determination. Attempts at severance by contractual  
18    arrangements, expressed or implied, for the surrender or  
19    relinquishment of children shall not be valid.

20    Section 3. Section 202 of the act, amended June 11, 1976  
21    (P.L.161, No.80), is amended to read:

22    Section 202. Venue.--Proceedings for voluntary  
23    relinquishment, involuntary termination and adoption may be  
24    brought in the court of the county where the petitioner, parent  
25    or parents or the adoptee, or the person or persons who have  
26    filed a report of intention to adopt required by section 331  
27    reside, or in the county in which is located an office of an  
28    agency having custody of the child. Proceedings may also be  
29    brought with leave of court in the county in which the adoptee  
30    formerly resided. At the request of any party to a proceeding,

1 the court may upon good cause shown transfer the case to the  
2 court in the county of residence of the person requesting the  
3 transfer.

4 Section 4. ~~Section 301~~ SECTIONS 301 AND 302, of the act ~~is~~ <—  
5 ARE amended to read: <—

6 Section 301. Relinquishment to Agency.--When any child  
7 [under the age of eighteen years] has been in the constructive  
8 or physical care of an agency for a minimum period of [five]  
9 three days, the parent or parents of the child may petition the  
10 court for permission to relinquish forever all parental rights  
11 and duties with respect to their child. [The written consent of  
12 a parent or guardian of a petitioner shall be required if he has  
13 not reached eighteen years of age.] The agency having the  
14 constructive or physical care of the child shall join in the  
15 petition which shall contain the agency's consent to accept  
16 custody of the child until such time as the child is adopted.  
17 For purposes of determining when such a petition may be filed,  
18 an agency shall have constructive care of a child as soon as it  
19 receives any written notice of present intent to transfer  
20 custody executed by the parent, regardless of whether or not the  
21 agency has the physical care of the child.

22 SECTION 302. RELINQUISHMENT TO ADULT INTENDING TO ADOPT <—  
23 CHILD.--WHEN ANY CHILD UNDER THE AGE OF EIGHTEEN YEARS HAS BEEN  
24 FOR A MINIMUM PERIOD OF THIRTY DAYS IN THE EXCLUSIVE CARE OF AN  
25 ADULT OR ADULTS WHO HAVE FILED A REPORT OF INTENTION TO ADOPT  
26 REQUIRED BY SECTION 331, THE PARENT OR PARENTS OF THE CHILD MAY  
27 PETITION THE COURT FOR PERMISSION TO RELINQUISH FOREVER ALL  
28 PARENTAL RIGHTS TO THEIR CHILD. [THE WRITTEN CONSENT OF A PARENT  
29 OR GUARDIAN OF A PETITIONER SHALL BE REQUIRED IF HE HAS NOT  
30 REACHED EIGHTEEN YEARS OF AGE.] THE ADULT OR ADULTS HAVING CARE

1 OF THE CHILD SHALL FILE A SEPARATE CONSENT TO ACCEPT CUSTODY OF  
2 THE CHILD.

3 Section 5. Section 303 of the act is repealed.

4 Section 6. Section 311 of the act is amended to read:

5 Section 311. Grounds for Involuntary Termination.--[The  
6 rights of a parent in regard to a child may be terminated after  
7 a petition filed pursuant to section 312, and a hearing held  
8 pursuant to section 313 on the ground that:

9 (1) The parent by conduct continuing for a period of at  
10 least six months either has evidenced a settled purpose of  
11 relinquishing parental claim to a child, or has refused or  
12 failed to perform parental duties; or

13 (2) The repeated and continued incapacity, abuse, neglect,  
14 or refusal of the parent has caused the child to be without  
15 essential parental care, control, or subsistence necessary for  
16 his physical or mental well-being and the conditions and causes  
17 of the incapacity, abuse, neglect, or refusal cannot or will not  
18 be remedied by the parent; or

19 (3) The parent is the presumptive but not the natural father  
20 of the child.]

21 (a) The rights of a parent in regard to a child may be  
22 terminated after a petition filed pursuant to section 312 and a  
23 hearing held pursuant to section 341 on the ground that:

24 (1) the child has been abandoned as defined in section 102;  
25 or

26 (2) the child has been removed from the physical care of the  
27 parent by the court or by a voluntary agreement with an agency  
28 or individual for a period of six months and the court finds  
29 that:

30 (i) the conditions which led to the removal or placement of

1 the child continue to exist; and

2 (ii) there is clear and convincing evidence that the parent  
3 cannot remedy those conditions in a reasonable period of time so  
4 that the child can be returned to the physical care of the  
5 parent; or

6 (iii) the parent has evidenced a settled purpose of  
7 relinquishing his or her claim to a child or has refused OR <—  
8 FAILED to provide for the physical, mental and emotional  
9 development and needs of the child; OR <—

10 (3) ~~The~~ THE parent, by conduct occurring during a period of <—  
11 at least twelve months, has demonstrated an intent to relinquish  
12 parental claim to the child by:

13 (i) without good cause failing to support or maintain said  
14 child; or

15 (ii) without good cause failing to visit or inquire about  
16 the welfare or such child.

17 (b) Whenever parental rights and duties are being terminated  
18 pursuant to subsection (a)(2), the court shall consider, but is  
19 not limited, to the following:

20 (1) what services have been provided or offered to remedy  
21 the conditions which led to the removal or placement of the  
22 child;

23 (2) what specific criticisms the parent has of the services  
24 offered or provided;

25 (3) if the parent was dissatisfied with the services offered  
26 or provided, the attempt by the provider of such services to  
27 resolve such dissatisfaction and provide the parent with  
28 appropriate services;

29 (4) what effort the parent has made to adjust his  
30 circumstances, conduct or conditions to make it in the child's

best interest to return him to his home in a reasonable period of time, including:

(i) the extent to which the parent has maintained regular visitation or other contact with the child as part of a plan to reunite the child with the parent; and

(ii) the maintenance of regular contact or communication with the custodian of the child;

(5) whether additional services would effect a lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time; and

(6) whether the parent failed to appear at the scheduled hearing for which the parent has been given notice pursuant to section 341, to express interest in accepting custody unless the court determines that such absence is for good cause.

(c) In considering any of the above bases for terminating the rights of a parent, the court shall give primary consideration to the physical, mental and emotional development and needs of the child.

(d) Under no circumstances shall the rights of a parent be terminated solely on the basis of environmental factors which are beyond the control of the person responsible for the child's welfare such as inadequate housing, furnishings, income, clothing and medical care.

Section 7. The act is amended by adding ~~sections~~ A SECTION to read:

Section 311.1. Forfeiture of Parental Rights.--No person shall have any parental rights involving children who were conceived as a result of a rape for which he was convicted.

~~Section 311.2. Optional Proceedings. Any rape victim who bore a child as a result of said rape shall not be required to~~

~~appear at any hearing after she has signed a voluntary consent pursuant to section 301, provided that she signs a waiver before a judge of a court of common pleas in private regarding the voluntary relinquishment.~~

Section 8. Section 312 of the act is amended to read:

Section 312. Petition for Involuntary Termination.--(a) A petition to terminate parental rights with respect to a child [under the age of eighteen years] may be filed by (i) either parent when termination is sought with respect to the other parent, (ii) an agency, or (iii) the individual having custody or standing in loco parentis to the child and who has filed a report of intention to adopt required by section 331. [When the petition is filed by a parent who is under the age of eighteen it shall be joined in by at least one of the parents of such petitioning parent, unless the court is satisfied that such joinder would not be in the best interest of the petitioning parent and would serve no useful purpose. A petition filed under this section shall contain an averment that the petitioner will assume custody of the child until such time as the child is adopted.] ~~Parents or the agency otherwise qualified to file a petition under subsections (a)(i) and (a)(ii) shall be able to file such a petition whether or not an adoption is presently contemplated and whether or not a person with a present intention to adopt the child exists. No court shall require anyone filing a petition under this section to simultaneously or in conjunction therewith file a petition under section 401.~~

(b) A petition filed under this section shall set forth clearly and specifically those grounds and facts alleged as the basis for terminating parental rights and shall specifically identify the applicable sections of the act under which



1 termination is sought. Such a petition shall also contain an  
2 averment that the petitioner will assume custody of the child  
3 until such time as the child is adopted.

4 ~~(c) A petition requesting a court to terminate parental~~ <—  
5 ~~rights for an abandoned child shall be filed within four months~~  
6 ~~after the child has come within the physical care of the~~  
7 ~~petitioner. However, the failure to file a petition within the~~  
8 ~~above time limits shall not preclude the later filing of such a~~  
9 ~~petition.~~

10 Section 9. Section 313 of the act is repealed.

11 Section 10. Section 331 of the act is amended to read:

12 Section 331. Report of Intention to Adopt.--Every person now  
13 having or hereafter receiving or retaining [possession,] custody  
14 or [control] physical care of any child, for the purpose or with  
15 the intention of adopting a child [under the age of eighteen  
16 years] shall report to the court in which the petition for  
17 adoption will be filed. The report shall set forth the  
18 circumstances surrounding the persons receiving or retaining  
19 [possession,] custody or [control] physical care of the child;  
20 the name, sex, racial background, age, date and place of birth,  
21 and religious affiliation of the child; the name and address of  
22 the intermediary; [the fee or expenses] AN ITEMIZED ACCOUNTING <—  
23 OF MONEYS AND CONSIDERATION paid or to be paid to the  
24 intermediary and the name and address of the person or persons  
25 making the report. When a person receives or retains  
26 [possession,] custody or [control] physical care of a child from  
27 an agency the report shall set forth only the name and address  
28 of the agency, and the circumstances surrounding such person's  
29 receiving or retaining [possession,] custody or [control]  
30 physical care of the child. No report shall be required when the

1 child is the child, grandchild, stepchild, brother or sister of  
2 the whole or half blood, or niece or nephew by blood or marriage  
3 of the person receiving or retaining [possession,] custody or  
4 [control] physical care.

5 Section 11. Section 332 of the act is amended to read:

6 Section 332. Filing of Report.--The report required by  
7 section 331 shall be filed within thirty days after the date of  
8 receipt of the [possession,] custody or [control] physical care  
9 of the child.

10 Section 12. The introductory paragraph and clauses (4), (7),  
11 (8) and (10) of section 333 of the act are amended to read:

12 Section 333. Report of Intermediary.--[The] Within six  
13 months after filing the report of intention to adopt, the  
14 intermediary who or which arranged the adoption placement of any  
15 child [under the age of eighteen years] shall make a written  
16 report under oath to the court in which the petition for  
17 adoption will be filed, and shall thereupon forthwith notify in  
18 writing the adopting parent or parents of the fact that such  
19 report has been filed and the date thereof. The report shall set  
20 forth to the extent known:

21 \* \* \*

22 (4) The name, racial background, age, marital status as of  
23 the time of birth of the child and during one year prior  
24 thereto, and religious affiliation of the parents of the child  
25 [(or of the mother only in the case of an illegitimate child)];

26 \* \* \*

27 (7) A statement that all consents required by section 411  
28 [(3), (4) and (5),] are attached as exhibits for the basis upon <—  
29 which such consents are not required; <—

30 (8) [The fee or expenses] An itemized accounting of moneys

1 AND CONSIDERATION paid or to be paid to or received by the  
2 intermediary or to or by any other person or persons to the  
3 knowledge of the intermediary by reason of the adoption  
4 placement;

5 \* \* \*

6 (10) A statement that no provision of any act regulating the  
7 [importation of dependent, delinquent or defective] interstate  
8 placement of children has been violated with respect to the  
9 placement of the child.

10 Section 13. Clauses (2) and (3) of section 334 of the act,  
11 amended October 14, 1977 (P.L.211, No.61), are amended to read:

12 Section 334. Exhibits.--The report of the intermediary shall  
13 have attached to it the following exhibits:

14 \* \* \*

15 (2) All consents to adoption required by section 411 [(3),  
16 (4) and (5)];

17 (3) A certified copy of any decree of termination [made by a  
18 court other than the court in which the petition for adoption  
19 will be filed] of parental rights or parental rights and duties.

20 Section 14. Section 335 of the act is amended to read:

21 Section 335. Investigation.--[When a report required by  
22 section 331 has been filed, the court shall cause an  
23 investigation to be made by one of the following: a local public  
24 child care agency, with its consent, a voluntary child care  
25 agency, or an appropriate person designated by the court. In  
26 lieu of such investigation, the court may accept an  
27 investigation made by the agency which placed the child, and the  
28 report of investigation in such cases may be incorporated into  
29 the report of the intermediary required by section 333. The  
30 investigation shall cover all pertinent information regarding

1 the suitability of the placement, including the age, sex,  
2 health, antecedents and eligibility for adoption of the child,  
3 and the age, health, social and economic status of the adopting  
4 parents. The court may establish procedure for the payment of  
5 investigation costs.]

6 (a) When a report required by section 331 has been filed,  
7 the court shall cause an investigation to be made and a report  
8 summarizing that investigation to be written and filed with the  
9 court by a local public child care agency, a voluntary child  
10 care agency with its consent, or an appropriate person  
11 designated by the court. In lieu of such investigation, the <—  
12 court may accept an investigation made by the agency which  
13 placed the child, and the report of investigation in such cases  
14 may be incorporated into the report of the intermediary required  
15 by section 333. The investigation shall cover all pertinent  
16 information regarding the child's eligibility for adoption and  
17 the suitability of the placement, including, but not limited to:  
18 the physical, mental and emotional development and needs of the  
19 child, and the child's and adopting parents' age, sex, health,  
20 social and economic status, and racial, ethnic, religious and <—  
21 genealogical history AND RELIGIOUS BACKGROUND. <—

22 (b) None of the factors listed in subsection (a) shall be  
23 absolutely determinative of whether or not the court should  
24 approve the proposed adoption. The factors listed in subsection  
25 (a) shall be for informational purposes only and the court shall  
26 be guided by the overall physical, mental and emotional  
27 development and needs of the child.

28 (c) Any report required to be filed with the court by  
29 section 331 or this section shall be presented to the court  
30 only, except that any such report shall be available for copying

1 by all parties to an adoption proceeding upon their request but  
2 only after all identifying names and addresses in the report  
3 have been extirpated.

4 Section 15. The act is amended by adding a section to read:

5 Section 336. Notice to the Intermediary.--If the report of  
6 the intermediary has not been filed pursuant to section 333  
7 within the six month limit, the court shall issue a rule to show  
8 cause on the intermediary why the statutory time limit has not  
9 been observed.

10 Section 16. Article III of the act is amended by adding a  
11 subdivision to read:

12 ARTICLE III

13 PROCEEDINGS PRIOR TO PETITION TO ADOPT

14 \* \* \*

15 E. Hearings

16 Section 341. Hearings.--(a) This section shall apply to all  
17 hearings on a petition to relinquish or terminate parental  
18 rights and duties.

19 (b) Notice of the hearing on the petition to relinquish or  
20 terminate parental rights and duties shall be given to the  
21 following persons:

22 (1) the parents regardless of marital status;

23 (2) the child's counsel;

24 (3) the petitioner;

25 (4) the guardian of the child, if any there be;

26 (5) the person OR AGENCY having custody of the child; and

<—

27 (6) the parents or guardian of a minor parent.

28 (c) Within ten days after the filing of a petition, the  
29 court shall:

30 (1) appoint counsel for the child; and

1     (2) set a time and place for a hearing, which hearing shall  
2 be not less than ~~forty~~ TEN nor more than sixty days after the <—  
3 filing of the petition unless all the parties to the proceeding  
4 agree to a shorter time.

5     (d) The notice of a hearing and a copy of the petition,  
6 certified by the petitioner, his agent, or attorney, shall be  
7 personally served or served by certified mail, postage prepaid,  
8 return receipt requested, on the persons named in subsection  
9 (b). The notice shall appear on a cover page and shall state

10 ~~both in English and Spanish the following~~ IN ENGLISH AND IN THE <—  
11 NATIVE LANGUAGE OF THE PARENT OR PARENTS, IF DIFFERENT THAN  
12 ENGLISH, THE FOLLOWING:

13 TO:     (Name)

14 A petition has been filed asking the court to put an end to all  
15 rights you have to your child, (insert name of child). The  
16 court has set a hearing to consider ending your rights to your  
17 child. That hearing will be held in (insert place giving  
18 reference to exact room and building number or designation) on  
19 (insert date) at (insert time). If you do not appear at this  
20 hearing, the court may decide that you are not interested in  
21 retaining your rights to your child and your failure to appear  
22 may affect the court's decision on whether to end your rights  
23 to your child. You are warned that even if you fail to appear  
24 at the scheduled hearing, the hearing will go on without you  
25 and your rights to your child may be ended by the court without  
26 your being present.

27 YOU HAVE A RIGHT TO BE REPRESENTED AT THE HEARING BY A LAWYER.

28 YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO

29 NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE

30 OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

1 \_\_\_\_\_  
2 (Name)  
3 \_\_\_\_\_  
4 (Address)  
5 \_\_\_\_\_  
6 (Telephone Number)

7 (e) Each court shall by local rule designate the officer,  
8 organization, agency or person to be named in the notice from  
9 whom legal help can be obtained.

10 (f) When a petition terminating parental rights is filed  
11 without identifying the father of the child, the court shall  
12 make inquiry to the Bureau of Vital Statistics, Department of  
13 Health, to determine if any claim of paternity has been recorded  
14 for the child, pursuant to section 342.

15 (g) If for any reason notice cannot be served on any person  
16 in accordance with subsection (d), the Pennsylvania Rules of  
17 Civil Procedure shall govern any further action relating to  
18 notice.

19 (h) Right to Counsel: all parties, including the child,  
20 shall have a right to counsel.

21 (1) The court upon request or on its own motion shall  
22 appoint counsel to represent the child. The child's right to  
23 separate and independent counsel is absolute and cannot be  
24 waived. If the child's parents have adequate financial means,  
25 the court shall award costs to include attorney fees against the  
26 parents. If the parents are without adequate financial means,  
27 the child shall be entitled to and receive free legal  
28 representation.

29 (2) If a party other than the child appears at any hearing  
30 without counsel, the court shall advise him of his right to

counsel, and if such party is indigent, the court shall appoint  
counsel to represent that party unless that party expressly  
waives his right to counsel.

(3) Whenever feasible, the attorney appointed by the court  
shall be the same attorney for all hearings and proceedings  
relating to the same child.

(4) All parties to the hearings or proceedings shall have  
all discovery rights provided by the Pennsylvania Rules of Civil  
Procedure, including without limitation the right to inspect and  
copy all relevant school, medical and agency documents, records  
and reports. No person shall disclose any information obtained  
by the discovery process.

(i) The hearing shall be private and shall be attended only  
by persons listed in subsection (b), witnesses but only while  
they are testifying, and attorneys representing the parties to  
the proceedings.

(j) No person shall disclose any information obtained or  
disclosed at the hearing.

(k) In any proceeding considering the involuntary  
termination of parental rights:

(1) The child shall not be present at the hearing unless the  
court at its discretion determines that it should interview the  
child in chambers in the presence of counsel to all parties.

(2) If notice of the hearing has been given in accordance  
with this act to the parent whose rights may be terminated and  
such parent does not appear at the hearing personally or through  
counsel, the court shall proceed with the hearing and may  
terminate the absent parent's rights upon a proper showing under  
this act.

(3) Any order which is entered by the court as a result of a



1 hearing under this act shall be served (or attempted to be  
2 served) on all parties to the proceeding or their counsel of  
3 record, including an absent parent if any, within five days from  
4 entry of that order in accordance with subsections (d) and (g).

5 (4) An absent parent whose rights have been involuntarily  
6 terminated pursuant to this act, may within thirty days after  
7 entry of the court's order terminating his rights and upon good  
8 cause shown petition the court to set aside its termination  
9 order and reconsider the question of whether that parent's  
10 rights should be involuntarily terminated. The thirty day period  
11 for filing such a petition may be extended by the court upon a  
12 showing by the absent parent of extenuating circumstances which  
13 prevented the filing of the petition within thirty days from  
14 entry of the court's termination order.

15 (5) If a petition is timely filed pursuant to this section,  
16 the court, upon good cause shown by the absent parent for not  
17 attending the involuntary termination hearing, shall set aside  
18 its order terminating that absent parent's parental rights and  
19 determine after conducting a subsequent hearing whether it  
20 should reinstate that previous order. Reasonable notice of such  
21 a subsequent hearing shall be given to IN accordance with  
22 subsections (d) and (g) to all parties to the initial proceeding  
23 and to all other persons who as a result of any placement of the  
24 child have become interested in the child's well-being  
25 subsequent to the initial proceeding, such other persons having  
26 the standing of parties in the subsequent proceeding. At such  
27 subsequent hearing, a party thereto may not only argue that the  
28 court should reinstate its previous termination order but may  
29 also attack the court's prior finding that good cause or  
30 extenuating circumstances, or both, shown by the absent parent

<—

1 allowing the court to set aside and reconsider its termination  
2 order. If such an attack is made, the burden of proof on good  
3 cause or extenuating circumstances shall remain with the absent  
4 parent, and upon deciding the issue or issues relating to good  
5 cause or extenuating circumstances the court shall make specific  
6 findings of fact in writing relating thereto.

7 Section 342. Registration of a Claim of Paternity.--At any  
8 time prior to or within ~~ten~~ SIXTY days after the birth of a <—  
9 child born to an unmarried woman, the father of such child may  
10 file a claim of paternity with respect to the child. Such claim  
11 shall be made on a form prescribed jointly by the Departments of  
12 Public Welfare and Health and shall be filed with the ~~local~~ <—  
13 ~~registrar appointed by the Secretary of the Department of~~  
14 ~~Health. Upon receipt of such form registering a claim of~~  
15 ~~paternity, the local registrar shall send the form to the Bureau~~  
16 ~~of Vital Statistics~~ BUREAU OF VITAL STATISTICS. Such form shall <—  
17 be kept on file in the Bureau of Vital Statistics and shall be  
18 released only upon order of court.

19 Section 17. Clause (7) of section 401 of the act is amended  
20 to read:

21 Section 401. Contents of Petition.--A petition for adoption  
22 shall set forth:

23 \* \* \*

24 (7) That all consents required by section 411 [(1) and (2)]  
25 are attached as exhibits, or the basis upon which such consents  
26 are not required;

27 \* \* \*

28 Section 18. Section 402 of the act, AMENDED OCTOBER 14, 1977 <—  
29 (P.L.211, NO.61), is amended to read:

30 Section 402. Exhibits.--The petition shall have attached to

1 it the following exhibits:

2 (1) The consent or consents required by section 411 [(1) and  
3 (2)] or the basis upon which such consents are not required;

4 (2) If not already filed with a report of an intermediary,  
5 the exhibits enumerated in section 334. IF NO BIRTH CERTIFICATE <—  
6 OR CERTIFICATION OF REGISTRATION OF BIRTH CAN BE OBTAINED, THE  
7 REASON THEREFOR SHALL BE SO STATED, AND EFFORTS MADE TO OBTAIN  
8 SAID CERTIFICATE SHALL BE ALLEGED THEREIN WITH A REQUEST THAT  
9 THE COURT ESTABLISH A DATE AND PLACE OF BIRTH. THE COURT MAY  
10 ESTABLISH A DATE AND PLACE OF BIRTH AT THE ADOPTION HEARING ON  
11 THE BASIS OF THE EVIDENCE PRESENTED.

12 (3) The termination decrees of parental rights or parental  
13 rights and duties, for both parents.

14 (4) ANY COURT DECREES APPROVING THE VOLUNTARY RELINQUISHMENT <—  
15 OF PARENTAL RIGHTS OR PARENTAL RIGHTS AND DUTIES.

16 Section 19. Section 411 of the act is amended to read:

17 Section 411. Consents Necessary to Adoption.--Except as  
18 otherwise provided in this act, consent to an adoption shall be  
19 required of the following:

20 (1) The adoptee, if over [twelve] ten years of age;

21 (2) The adopting parent's spouse, unless they join in the  
22 adoption petition;

23 [(3) The parents or surviving parent of an adoptee who shall  
24 not have reached the age of eighteen years. If any such parent  
25 or surviving parent shall be a minor, but shall have reached the  
26 age of eighteen years, his consent shall be sufficient without  
27 the consent of his parent or guardian, and such consent shall  
28 have the same force and validity as though he were an adult. In  
29 the case of an illegitimate child, the consent of the mother  
30 only shall be necessary. The consent of the natural father of a

1 child who was illegitimate at birth shall be required only if  
2 the relationship between mother and child was terminated by a  
3 decree entered after the marriage of the mother and the natural  
4 father. The consent of the husband of the mother shall not be  
5 necessary if, after notice to the husband, it is proved to the  
6 satisfaction of the court by evidence, including testimony of  
7 the natural mother, that the husband of the natural mother is  
8 not the natural father of the child. Absent such proof, the  
9 consent of a former husband of the natural mother shall be  
10 required if he was the husband of the natural mother at any time  
11 within one year prior to the birth of the adoptee;

12 (4) The agency to which custody of the child has been  
13 awarded under Article III;

14 (5) The guardian of the person of an adoptee under the age  
15 of eighteen years, if any there be, or of the person or persons  
16 having the custody of such adoptee, if any such person can be  
17 found, whenever the adoptee has no parent whose consent is  
18 required.]

19 (3) The guardian of a mentally incapacitated adoptee,  
20 without regard to age; AND

<—

21 (4) The guardian of an adoptee under the age of ten years,  
22 if any there be.

23 Section 20. Sections 412, 413 and 414 of the act are  
24 repealed.

25 Section 21. Subdivision C of Article IV of the act is  
26 reenacted and amended to read:

27 ARTICLE IV

28 PETITION FOR ADOPTION; CONSENTS

29 \* \* \*

30 C. Adoption Hearings

1 Section 421. Notice.--The court shall fix a time and place  
2 for hearing. Notice thereof shall be given to [all persons whose  
3 required consent has not been obtained and to such other persons  
4 as the court shall direct. Notice to the parent or parents of  
5 the adoptee, if required, may be given by the intermediary or  
6 someone acting on his behalf.] the following:

7 (1) The adopting parents.

8 (2) Those persons whose consents are required pursuant to  
9 section 411.

10 (3) Any agency to which custody of the child has been  
11 awarded.

12 (4) Any guardian of the person of an adoptee or of the  
13 person or persons having custody of such adoptee, if any such  
14 person there be.

15 (5) ALL COUNSEL OF RECORD. <—  
16 Notice shall be by personal service or by registered or  
17 certified mail, return receipt requested, to the last known  
18 address of the person to be notified or in such other manner as  
19 the court shall direct. If for any reason notice cannot be  
20 effected in accordance with this section, the Pennsylvania Rules  
21 of Civil Procedure shall govern any further action relating to  
22 notice.

23 Section 422. Place of Hearing.--The hearing shall be private  
24 or in open court as the court deems appropriate.

25 Section 423. Attendance at Hearing.--The adopting parent or  
26 parents and the adoptee must appear at and, if required, testify  
27 at the hearing under oath unless the court determines their  
28 presence is unnecessary; in addition the court may require the  
29 appearance and testimony of all persons [or agencies] whose  
30 consent is required by this act or who have acted as an

1 intermediary if such appearance or testimony would be necessary  
2 or helpful to it.

3 Section 424. Testimony; Investigation.--(a) The court shall  
4 hear testimony in support of the petition and such additional  
5 testimony as it deems necessary to inform it as to the  
6 desirability of the proposed adoption. It shall require a  
7 disclosure of all [costs and fees of any type] moneys AND <—  
8 CONSIDERATION paid or to be paid to any person or institution in  
9 connection with the adoption. [including the fees of any  
10 intermediary. It] The judge shall assure, through personal  
11 conference with the adoptee in chambers, that consent of the  
12 adoptee as provided in section 411 was informed and freely given  
13 AND MAY INTERVIEW THE ADOPTEE IN CHAMBERS WITH COUNSEL, IF ANY, <—  
14 PRESENT CONCERNING ANY OTHER MATTER RELEVANT TO THE ADOPTION.  
15 When age appropriate the judge shall confer in chambers with an  
16 adoptee under the age of ten years as to whether such adoptee  
17 has any objection to the adoption. The judge shall make his  
18 findings a part of the official case record. official case <—  
19 record.

20 (b) The court also shall make or cause to be made an  
21 investigation by a person or public agency or, with its consent,  
22 a voluntary agency, specifically designated by the court to  
23 verify the statements of the petition and such other facts that  
24 will give the court full knowledge of the desirability of the  
25 proposed adoption. It may rely in whole or in part upon a report  
26 earlier made under section 335 of this act. [The court may  
27 establish a procedure for the payment of investigation costs by  
28 the petitioners or by such other persons as the court may  
29 direct.]

30 Section 425. Religious Belief.--Whenever possible, the

1 adopting parents shall be of the same religious faith as the  
2 natural parents of the adoptee. No person shall be denied the  
3 benefits of this act because of a religious belief in the use of  
4 spiritual means or prayer for healing.

5 Section 22. Section 507 of the act is repealed.

6 Section 23. Section 509 of the act is amended to read:

7 Section 509. Foreign Decree.--When a decree of adoption of a  
8 minor is made or entered in conformity with the laws of another  
9 state or a foreign country whereby a child is adopted by a  
10 resident of this Commonwealth, a copy of the final decree,  
11 properly authenticated, may be filed with the clerk in the  
12 county of residence of the adopting parents. The decree and such  
13 other documents as may be filed therewith shall be kept in the  
14 files of the court as a permanent record thereof, and shall be  
15 withheld from inspection except on order of court granted upon  
16 cause shown. Upon the filing of a foreign decree of adoption,  
17 the clerk shall enter upon the docket an entry showing the  
18 foreign court, identification of the proceedings therein and the  
19 date of the decree, [After the decree has been filed, the clerk  
20 shall make a report thereof to the Department of Public Welfare  
21 on a form supplied by the department, which the department shall  
22 keep in confidential files.] and shall issue a certificate of  
23 adoption in conformity with the provisions of section 508.

24 Information identifying the natural parents shall not be  
25 required.

26 Section 24. This act shall take effect in 60 days.

27