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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1789

Session of  
1981

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INTRODUCED BY HAGARTY, CORNELL, REBER, NOYE, NAHILL, COCHRAN,  
HORGOS, SPENCER, CAWLEY, PRATT, DAIKELER, SAURMAN, BROWN,  
MICOZZIE, KOWALYSHYN, SHOWERS, MAIALE, FREIND, VROON, MORRIS,  
J. L. WRIGHT, SALVATORE, WILSON, KUKOVICH, SIEMINSKI, SNYDER,  
ARTY, GALLAGHER AND CORDISCO, AUGUST 17, 1981

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 8, 1982

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AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania  
2 Consolidated Statutes, further providing for adoption.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Section 2102 of Title 23, act of November 25,  
6 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated  
7 Statutes, is amended by adding a definition to read:

8 § 2102. Definitions.

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

12 \* \* \*

13 "Medical history information." Medical records and other  
14 information concerning an adoptee or an adoptee's natural family  
15 which is relevant to the adoptee's present or future health care

1 or medical treatment. The term includes otherwise confidential  
2 or privileged information provided that identifying contents  
3 have been removed pursuant to section 2909 (relating to medical  
4 history information).

5 \* \* \*

6 ~~Section 2. Section 2502(a) of Title 23 is amended to read:~~ <—

7 ~~§ 2502. Relinquishment to adult intending to adopt child.~~

8 ~~(a) Petition. When any child under the age of 18 years has~~  
9 ~~been for a minimum period of [30] 20 days in the exclusive care~~  
10 ~~of an adult or adults who have filed a report of intention to~~  
11 ~~adopt required by section 2531 (relating to report of intention~~  
12 ~~to adopt), the parent or parents of the child may petition the~~  
13 ~~court for permission to relinquish forever all parental rights~~  
14 ~~to their child.~~

15 \* \* \*

16 SECTION 2. SECTION 2313 OF TITLE 23 IS AMENDED TO READ: <—

17 § 2313. REPRESENTATION FOR CHILD.

18 [THE COURT SHALL APPOINT COUNSEL TO REPRESENT THE CHILD IN AN  
19 INVOLUNTARY TERMINATION PROCEEDING AND AT ANYTIME MAY APPOINT  
20 COUNSEL OR A GUARDIAN AD LITEM FOR A CHILD WHO HAS NOT REACHED  
21 THE AGE OF 18 YEARS.]

22 (A) GENERAL RULE.--THE COURT SHALL APPOINT COUNSEL TO <—  
23 REPRESENT THE CHILD IN AN INVOLUNTARY TERMINATION PROCEEDING  
24 WHEN THE PROCEEDING IS BEING CONTESTED BY ONE OR BOTH OF THE  
25 PARENTS. THE COURT MAY APPOINT COUNSEL OR A GUARDIAN AD LITEM TO  
26 REPRESENT ANY CHILD WHO HAS NOT REACHED THE AGE OF 18 YEARS AND  
27 IS SUBJECT TO ANY OTHER PROCEEDING UNDER THIS PART WHENEVER IT <—  
28 IS IN THE BEST INTERESTS OF THE CHILD. NO ATTORNEY OR LAW FIRM  
29 SHALL REPRESENT BOTH THE CHILD AND THE ADOPTING PARENT OR  
30 PARENTS.

1       ~~(B) PAYMENT OF COSTS.--THE COSTS FOR COUNSEL APPOINTED ON~~ <—  
2 ~~BEHALF OF THE CHILD SHALL BE BORNE BY THE ADOPTING PARENTS~~  
3 ~~EXCEPT THAT, FOR CAUSE SHOWN, THE COURT MAY ORDER ALL OR A PART~~  
4 ~~OF THE COSTS ATTENDANT TO A PROCEEDING UNDER THIS PART TO BE~~  
5 ~~PAID BY THE COUNTY WHEREIN THE CASE IS HEARD. CAUSE SHOWN SHALL~~  
6 ~~CONSIST OF EITHER A SHOWING THAT THE PRESENT CASE IS A~~  
7 ~~SUBSIDIZED ADOPTION OR A SHOWING, TO THE COURT'S SATISFACTION,~~  
8 ~~THAT THE ADOPTING PARENTS CAN QUALIFY FOR ASSISTANCE AS A RESULT~~  
9 ~~OF AN IN FORMA PAUPERIS AFFIDAVIT. THE COURT, IN ITS DISCRETION,~~ <—  
10 ~~MAY ORDER ALL OR PART OF THE COSTS ATTENDANT TO A PROCEEDING~~  
11 ~~UNDER THIS PART TO BE PAID BY THE COUNTY WHEREIN THE CASE IS~~  
12 ~~HEARD, THE ADOPTING PARENTS OR APPORTIONED TO BOTH, PROVIDED~~  
13 ~~THAT IF THE ADOPTING PARENTS SHALL BE ORDERED TO BEAR ALL OR A~~  
14 ~~PORTION OF THE COSTS OF THIS PART THAT:~~

15       ~~(1) THE COURT MAY DIRECT THAT THE PAYMENT OF THE FEES OR~~  
16 ~~A PORTION THEREOF MAY BE PAID BY A COURT ORDERED SCHEDULE OF~~  
17 ~~PAYMENTS EXTENDING BEYOND THE DATE OF THE INVOLUNTARY~~  
18 ~~TERMINATION HEARING; AND~~

19       ~~(2) THE FEE SHALL NOT EXCEED \$150.~~

20       Section 3. Section 2503(b) of Title 23 is amended and a  
21 subsection is added to read:

22       § 2503. Hearing.

23       \* \* \*

24       (b) Notice.--Notice to the petitioner shall be in the form  
25 provided in section 2513(b) (relating to hearing). Notice of the  
26 hearing shall be given to the other parent, to the putative  
27 father whose parental rights could be terminated pursuant to  
28 subsection (d) and to the parents or guardian of a petitioner  
29 who has not reached 18 years of age.

30       \* \* \*

1     (d) Putative father.--If a putative father will not file a  
2 petition to voluntarily relinquish his parental rights pursuant  
3 to section 2501 (relating to relinquishment to agency) or 2502  
4 (relating to relinquishment to adult intending to adopt child)  
5 and has not filed an acknowledgment of paternity or claim of  
6 paternity pursuant to section 8302 (relating to acknowledgment  
7 of paternity) or 8303 (relating to claim of paternity), the  
8 court may enter a decree terminating the parental rights of the  
9 putative father pursuant to subsection (c).

10     Section 4. Title 23 is amended by adding sections to read:  
11 § 2504. Alternative procedure for relinquishment.

12     (a) Petition to confirm consent to adoption.--If the parent  
13 or parents of the child have executed consents to an adoption as  
14 required by section 2711 (relating to consents necessary to  
15 adoption) but have failed for a period of 40 days after  
16 executing the consent to file or proceed with the petition for  
17 voluntary relinquishment of parental rights provided for in this  
18 subchapter, the intermediary may petition the court to hold a  
19 hearing for the purpose of confirming the intention of the  
20 parent or parents to voluntarily relinquish their rights and  
21 duties as evidenced by the consent or consents to the adoption,  
22 the original of which shall be attached to the petition. In the  
23 case where there is no intermediary, the adoptive parent or  
24 parents may file the petition.

25     (b) Hearing.--Upon presentation of a petition filed pursuant  
26 to this section, the court shall fix a time for a hearing which  
27 shall not be less than ten days after filing of the petition.  
28 Notice of the hearing shall be served BY PERSONAL SERVICE OR by <—  
29 registered mail or by such other means as the court may require  
30 upon the consenter and shall be in the form provided in section

1 2513(b) (relating to hearing). Notice of the hearing shall be  
2 given to the other parent or parents, to the putative father  
3 whose parental rights could be terminated pursuant to subsection  
4 (c) and to the parents or guardian of a consenting parent who  
5 has not reached 18 years of age. After hearing, which shall be  
6 private, the court may enter a decree of termination of parental  
7 rights in the case of a relinquishment to an adult or a decree  
8 of termination of parental rights and duties, including the  
9 obligation of support, in the case of a relinquishment to an  
10 agency.

11 (c) Putative father.--If a putative father will not execute  
12 a consent to an adoption as required by section 2711 and has not  
13 filed an acknowledgment of paternity or claim of paternity  
14 pursuant to section 8302 (relating to acknowledgment of  
15 paternity) or 8303 (relating to claim of paternity), the court  
16 may enter a decree terminating the parental rights of the  
17 putative father pursuant to subsection (b).

18 § 2505. Counseling.

19 (a) List of counselors.--Any hospital or other facility  
20 providing maternity care shall provide a list of available  
21 counselors and counseling services compiled pursuant to  
22 subsection (b) to maternity patients who are known to be  
23 considering relinquishment or termination of parental rights  
24 pursuant to this part.

25 (b) Compilation of list.--The court shall compile a list of  
26 QUALIFIED counselors and counseling services (INCLUDING ADOPTION <—  
27 AGENCIES) which are available to counsel natural parents who are  
28 contemplating relinquishment or termination of parental rights  
29 pursuant to this part. Such list shall be made available upon  
30 request to any agency, intermediary, hospital or other facility

1 providing maternity care.

2 Section 5. Sections 2513(b) and 2531(b) of Title 23 are  
3 amended to read:

4 § 2513. Hearing.

5 \* \* \*

6 (b) Notice.--At least ten days' notice shall be given to the  
7 parent or parents, putative parent, or parent of a minor parent  
8 whose rights are to be terminated, by PERSONAL SERVICE OR BY <—  
9 registered mail to his or their last known address or by such  
10 other means as the court may require. A putative parent shall  
11 include one who has filed a claim of paternity as provided in  
12 section 8303 (relating to claim of paternity) prior to the  
13 institution of proceedings. The notice shall state the  
14 following:

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

1 the office set forth below to find out where you can get  
2 legal help.

3 (Name).....

4 (Address).....

5 .....

6 (Telephone number)....."

7 \* \* \*

8 § 2531. Report of intention to adopt.

9 \* \* \*

10 (b) Contents.--The report shall set forth:

11 (1) The circumstances surrounding the persons receiving  
12 or retaining custody or physical care of the child.

13 (2) The name, sex, racial background, age, date and  
14 place of birth and religious affiliation of the child.

15 (3) The name and address of the intermediary.

16 (4) An itemized accounting of moneys and consideration  
17 paid or to be paid to the intermediary.

18 (5) The name [and], address and signature of the person  
19 or persons making the report. Immediately above the signature  
20 of the person or persons intending to adopt the child shall  
21 appear the following statement:

22 I acknowledge that I have been advised or know and  
23 understand that the natural parent may revoke the consent  
24 to the adoption of this child until a court has entered a  
25 decree terminating the parental rights and, unless a  
26 decree terminating parental rights has been entered, the  
27 natural parent may revoke the consent until a court  
28 enters the final adoption decree.

29 When a person receives or retains custody or physical care of a  
30 child from an agency the report shall set forth only the name

1 and address of the agency and the circumstances surrounding such  
2 person receiving or retaining custody or physical care of the  
3 child.

4 \* \* \*

5 Section 6. Section 2533(b) of Title 23 is amended and a  
6 subsection is added to read:

7 § 2533. Report of intermediary.

8 \* \* \*

9 (b) Contents.--The report shall set forth:

10 (1) The name and address of the intermediary.

11 (2) The name, sex, racial background, age, date and  
12 place of birth and religious affiliation of the child.

13 (3) The date of the placement of the child with the  
14 adopting parent or parents.

15 (4) The name, racial background, age, marital status as  
16 of the time of birth of the child and during one year prior  
17 thereto, and religious affiliation of the parents of the  
18 child.

19 (5) Identification of proceedings in which any decree of  
20 termination of parental rights, or parental rights and  
21 duties, with respect to the child was entered.

22 (6) The residence of the parents or parent of the child,  
23 if there has been no such decree of termination.

24 (7) A statement that all consents required by section  
25 2711 (relating to consents necessary to adoption) are  
26 attached as exhibits or the basis upon which the consents are  
27 not required.

28 (8) An itemized accounting of moneys and consideration  
29 paid or to be paid to or received by the intermediary or to  
30 or by any other person or persons to the knowledge of the

intermediary by reason of the adoption placement.

(9) A full description and statement of the value of all property owned or possessed by the child.

(10) A statement that no provision of any statute regulating the interstate placement of children has been violated with respect to the placement of the child.

(11) If no birth certificate or certification of registration of birth can be obtained, a statement of the reason therefor.

(12) A statement that medical history information was obtained and if not obtained, a statement of the reason therefor.

(c) Appropriate relief.--The court may provide appropriate relief where it finds that the moneys or consideration reported or reportable pursuant to subsection (b)(8) are excessive.

Section 7. Section 2711 of Title 23 is amended by adding subsections to read:

§ 2711. Consents necessary to adoption.

\* \* \*

(c) Validity of consent.--No consent shall be valid if it was executed prior to or within 72 hours after the birth of the child. Any consent given outside this Commonwealth shall be valid for purposes of this section if it was given in accordance with the laws of the jurisdiction where it was executed. A consent to an adoption may only be revoked prior to the earlier of either the entry of a decree of termination of parental rights or the entry of a decree of adoption. The revocation of a consent shall be in writing and shall be served upon the agency or adult to whom the child was relinquished.

(d) Contents of consent.--

1       (1) The consent of a parent of an adoptee under 18 years  
2       of age shall set forth the name, ~~address,~~ age and marital <—  
3       status of the parent, the relationship of the consenter to  
4       the child, the name ~~and address~~ of the other parent or <—  
5       parents of the child and the following:

6               I hereby voluntarily and unconditionally consent to  
7       the adoption of the above named child.

8               I understand that by signing this consent I indicate  
9       my intent to permanently give up all rights to this  
10       child.

11               I understand such child will be placed for adoption.

12               I understand I may not revoke this consent after a  
13       court has entered a decree confirming this consent or  
14       otherwise terminating my parental rights to this child.  
15       Even if a decree has not been entered terminating my  
16       parental rights I may not revoke this consent after a  
17       decree of adoption of this child is entered.

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

20       (2) The consent shall include the date and place of its  
21       execution and names and addresses and signatures of at least  
22       two persons who witnessed its execution and their  
23       relationship to the consenter.

24       Section 8. Section 2901 of Title 23 is amended to read:

25       § 2901. Time of entry of decree of adoption.

26       Unless the court for cause shown determines otherwise, no  
27       decree of adoption shall be entered unless the [adoptee has  
28       resided with the petitioner for at least six months prior  
29       thereto or, in lieu of such residence, the adoptee is at least  
30       18 years of age or is related by blood or marriage to the

petitioner] natural parent or parents' rights have been  
terminated, the investigation required by section 2535 (relating  
to investigation) has been completed, the report of the  
intermediary has been filed pursuant to section 2533 (relating  
to report of intermediary) and all other legal requirements have  
been met. If all legal requirements have been met, the court may  
enter a decree of adoption at any time.

Section 9. Title 23 is amended by adding a section to read:  
§ 2909. Medical history information.

(a) Delivery of information.--Medical history information  
shall, where practicable, be delivered by the attending  
physician or other designated person to the intermediary who  
shall deliver such information to the adopting parents or their  
physician. In cases where there is no intermediary, medical  
history information shall be delivered directly to the adopting  
parents or their physician.

(b) Editing of information.--In all cases, medical history  
information shall be edited before delivery so as to remove any  
contents which would identify the adoptee's natural family.

(c) Regulations.--The Pennsylvania Department of Health  
shall implement the provisions of this section by regulation.

Section 10. Except for the provisions of 23 Pa.C.S. § 2909  
which shall take effect in one year, this act shall take effect  
in 60 days.