

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2995 Session of
1994

INTRODUCED BY BLAUM, SCRIMENTI, KUKOVICH, GORDNER, LAUB, COY,
FARGO, SANTONI, ROONEY, CARONE, STABACK, FEE, L. I. COHEN,
E. Z. TAYLOR, HASAY, TRELLO, TIGUE, STERN, BATTISTO, SAYLOR,
HARLEY, STEELMAN AND MERRY, SEPTEMBER 27, 1994

REFERRED TO COMMITTEE ON AGING AND YOUTH, SEPTEMBER 27, 1994

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, further providing for court, for
3 representation, for relinquishment, for hearings, for
4 confidentiality, for counseling, for involuntary termination,
5 for decrees, for reports, for investigation, for adoption
6 exchange, for registration of children, for responsibilities,
7 for consents, for impounding of proceedings, for access to
8 records, for docket entries, for certificate of adoption, for
9 foreign decree of adoption, for medical history information
10 and for penalty for unauthorized disclosure; providing for
11 the Pennsylvania Adoption Information Retrieval System, for
12 adoption registry, for transfer of adoption records and for
13 open adoption; and making repeals.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Sections 2102, 2301, 2313, 2501 and 2502 of Title
17 23 of the Pennsylvania Consolidated Statutes are amended to
18 read:

19 § 2102. Definitions.

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

1 "Adjustment counseling." For purposes of section 2533(d)(3)
2 (relating to report of intermediary), the guidance and advice
3 given to a child and adoptive parent in helping them to become a
4 stable family.

5 "Adoptee." An individual proposed to be adopted.

6 "Adoption counseling." For purposes of section 2505
7 (relating to adoption counseling), the information and options
8 provided by an approved counselor or agency to assist an
9 individual who is considering adoption.

10 "Adult birth sibling." An individual 18 years of age or
11 older who has at least one birth parent in common with the
12 adoptee.

13 "Agency." Any incorporated or unincorporated organization,
14 society, institution or other entity, public or voluntary, which
15 may receive or provide for the care of children, supervised by
16 the Department of Public Welfare and providing adoption services
17 in accordance with standards established by the department.

18 "Birth parent." The individual identified on the child's
19 original birth certificate as the mother or father.

20 "Clerk." The clerk of the division of the court of common
21 pleas having jurisdiction over voluntary relinquishment,
22 involuntary termination and adoption proceedings.

23 "Counselor." An individual licensed or employed by a
24 licensed or supervised agency to provide guidance regarding
25 relationships, decision making and life adjustments regarding
26 family matters.

27 "Court." The court of common pleas.

28 "Identifying information." The name, address, Social
29 Security number and any other proper names of places which would
30 reveal the identity of a person.

1 "Intermediary." Any person or persons or agency acting
2 between the parent or parents and the proposed adoptive parent
3 or parents in arranging an adoption placement.

4 "Legal father." The man who was legally married to the birth
5 mother during any part of the one-year period prior to the birth
6 of a child or who has been designated as the father pursuant to
7 a court order resulting from a paternity action.

8 "Medical history information." Medical records and other
9 available information concerning an adoptee or an adoptee's
10 [natural] birth family which is relevant to the adoptee's
11 present or future health care or medical treatment. The term
12 includes otherwise confidential or privileged information,
13 provided that identifying contents have been removed pursuant to
14 section 2909 (relating to medical history information). Other
15 information includes, but is not limited to, data regarding
16 alcohol or substance abuse on the part of the birth parents and
17 any information regarding physical, sexual or mental injury or
18 abuse.

19 "Newborn child." A child who is six months of age or younger
20 at the time of the filing of any petition pursuant to Chapter 25
21 (relating to proceedings prior to petition to adopt).

22 ["Parent." Includes adoptive parent.]

23 "Putative father." Any man not deemed or adjudicated under
24 the laws of this Commonwealth to be the father of genetic origin
25 of a child or who claims to be the birth father pursuant to
26 section 5103 (relating to acknowledgment and claim of paternity)
27 or is identified by the birth mother as the child's father.

28 § 2301. Court.

29 The court of common pleas of each county shall exercise
30 [through the appropriate division original] jurisdiction over

1 voluntary relinquishment, involuntary termination and adoption
2 proceedings. A judge in the juvenile division that adjudicated a
3 child dependent or conducted disposition review hearings or
4 other dependency proceedings involving the child may be assigned
5 to the orphans' court division for the purpose of hearing
6 proceedings relating to involuntary termination of parental
7 rights of a parent of a dependent child.

8 § 2313. Representation.

9 [(a) Child.--]The court [shall] may appoint counsel or a
10 guardian ad litem to represent [the] any child [in an
11 involuntary termination proceeding when the proceeding is being
12 contested by one or both of the parents. The court may appoint
13 counsel or a guardian ad litem to represent any child who has
14 not reached the age of 18 years and is subject to any other] who
15 has not reached the age of 18 years and is subject to any other
16 proceeding under this part whenever it is in the best interests
17 of the child. No attorney or law firm shall represent both the
18 child and the adopting parent or parents.

19 (a.1) Parent.--The court shall appoint counsel for a parent
20 whose rights are subject to termination in an involuntary
21 termination proceeding if, upon petition of the parent, the
22 court determines that the parent is unable to pay for counsel or
23 if payment would result in substantial financial hardship.

24 (b) Payment of costs.--The court, in its discretion, may
25 order all or part of the costs attendant to a proceeding under
26 this part to be paid by the county wherein the case is heard,
27 the adopting parents or apportioned to both, provided that if
28 the adopting parents shall be ordered to bear all or a portion
29 of the costs of this part that:

30 (1) the court may direct that the payment of the fees or

1 a portion thereof may be paid by a court ordered schedule of
2 payments extending beyond the date of the involuntary
3 termination hearing; and

4 (2) the fee shall not exceed \$150.

5 § 2501. [Relinquishment to agency.] Petition for voluntary
6 relinquishment.

7 (a) [Petition] Relinquishment to agency.--When any child
8 under the age of 18 years has been in the care of an agency for
9 a minimum period of three days [or, whether or not the agency
10 has the physical care of the child,] and the agency has received
11 a written notice of the present intent of a parent to transfer
12 [to it] custody of the child to it pursuant to section 2502.1
13 (relating to consents to transfer custody), [executed by the
14 parent,] the birth parent or parents of the child may petition
15 the court for permission to relinquish forever all parental
16 rights and duties with respect to [their] the child. It shall
17 not be necessary for the agency to have actual physical care of
18 the child.

19 [(b) Consents.--The written consent of a parent or guardian
20 of a petitioner who has not reached 18 years of age shall not be
21 required. The consent of the agency to accept custody of the
22 child until such time as the child is adopted shall be
23 required.]

24 (b.1) Relinquishment to adult.--When any child under the age
25 of 18 years has, for a period of at least three days, been in
26 the exclusive care of an adult or adults who have filed a report
27 of intention to adopt under section 2531 (relating to report of
28 intention to adopt) and the birth parent has executed a written
29 notice of the present intent of a parent to transfer custody of
30 the child to the adult or adults pursuant to section 2502.1, the

1 birth parent or parents of the child may petition the court for
2 permission to relinquish forever all parental rights to the
3 child.

4 (c) Alternative procedure.--If the birth parent or parents
5 of the child have executed consent or consents to an adoption
6 under section 2711 (relating to consents necessary to adoption)
7 but have failed for a period of ten days after executing the
8 consent or consents to file or proceed with the petition for
9 voluntary relinquishment of parental rights under this
10 subchapter, the intermediary may petition the court to hold a
11 hearing for the purpose of confirming the intention of the birth
12 parent or parents to voluntarily relinquish their rights and
13 duties as evidenced by the consent or consents to the adoption,
14 the original of which shall be attached to the petition. In the
15 case where there is no intermediary, the adoptive parent or
16 parents may file the petition.

17 [§ 2502. Relinquishment to adult intending to adopt child.

18 (a) Petition.--When any child under the age of 18 years has
19 been for a minimum period of 30 days in the exclusive care of an
20 adult or adults who have filed a report of intention to adopt
21 required by section 2531 (relating to report of intention to
22 adopt), the parent or parents of the child may petition the
23 court for permission to relinquish forever all parental rights
24 to their child.

25 (b) Consents.--The written consent of a parent or guardian
26 of a petitioner who has not reached 18 years of age shall not be
27 required. The adult or adults having care of the child shall
28 file a separate consent to accept custody of the child.]

29 Section 2. Title 23 is amended by adding a section to read:

30 § 2502.1. Consents to transfer custody.

1 (a) Birth parent consent to transfer custody.--

2 (1) The written consent to transfer custody of a child
3 to an agency or an individual intending to adopt required
4 under section 2501(a) or (b.1) (relating to petition for
5 voluntary relinquishment) shall set forth the name, age and
6 marital status of the birth parent executing the consent and
7 the name of the other birth or legal parent of the child,
8 when known, and shall contain the following statement:

9 "I hereby transfer custody of this child as part of
10 an adoption plan. This consent to transfer custody
11 indicates my current intention to terminate all my rights
12 to the child. I understand that adoption decision
13 counseling is available to me concerning the termination
14 of my rights and the alternatives to adoption. I have
15 been notified of available counseling sources, I
16 understand that this counseling is available to me at no
17 charge, I have read and understand this consent, and I am
18 signing it as a free and voluntary act."

19 (2) The consent shall include the date and place of its
20 execution and the name and address and signature of at least
21 one person who witnessed its execution and his or her
22 relationship to the birth parent. However, an adoptive parent
23 and an attorney for the adoptive parents shall not serve as a
24 witness.

25 (b) Consent of agency to accept custody.--The consent of the
26 agency to accept custody of the child until such time as the
27 child is adopted shall be filed with the court.

28 (c) Consent of adult intending to adopt to accept custody.--
29 The consent of the adult or adults having care of the child to
30 accept custody shall be filed with the court.

1 (d) Parent or guardian.--No consent of a parent or guardian
2 of a birth parent who has not reached 18 years of age shall be
3 required.

4 (e) Identity of transferees.--A consent to transfer custody
5 need not identify the adult or adults to whom the child is to be
6 transferred.

7 Section 3. Sections 2503, 2504, 2505, 2511, 2512 and 2513 of
8 Title 23 are amended to read:

9 § 2503. Hearing.

10 (a) General rule.--Upon presentation of a petition prepared
11 pursuant to section 2501 (relating to petition for voluntary
12 relinquishment [to agency]] [or section 2502 (relating to
13 relinquishment to adult intending to adopt child)]], the court
14 shall fix a time for hearing which shall not be less than ten
15 nor more than 30 days after filing of the petition. [The] A
16 petitioner under section 2501(a) and (b) must appear at the
17 hearing. At a hearing pursuant to section 2501(c), either the
18 petitioner, the intermediary or the adoptive parent or parents
19 must appear at the hearing.

20 (b) Notice.--

21 (1) At least ten days' notice of the hearing shall be
22 given to the petitioner, and a copy of the notice shall be
23 given to the other parent, to the birth, legal or putative
24 father whose parental rights could be terminated pursuant to
25 subsection (d) and to the parents or guardian of a petitioner
26 who has not reached 18 years of age.

27 (2) The notice to the petitioner shall state the
28 following:

29 "To: (insert petitioner's name)

30 A petition has been filed asking the court to put an

1 end to all rights you have to your child (insert name of
2 child). The court has set a hearing to consider ending
3 your rights to your child. That hearing will be held in
4 (insert place, giving reference to exact room and
5 building number or designation) on (insert date) at
6 (insert time). Your presence is required at the hearing.
7 You have a right to be represented at the hearing by a
8 lawyer. You should take this paper to your lawyer at
9 once. If you do not have a lawyer or cannot afford one,
10 go to or telephone the office set forth below to find out
11 where you can get legal help.

12 (Name).....

13 (Address).....

14

15 (Telephone number)....."

16 (3) The [copy of the] notice [which is given] to the
17 other parent or the birth, legal or putative father shall
18 state [that his rights may also be subject to termination
19 pursuant to subsection (d) if he fails to file either an
20 acknowledgment of paternity or claim of paternity pursuant to
21 section 5103 (relating to acknowledgment and claim of
22 paternity) and fails to either appear at the hearing for the
23 purpose of objecting to the termination of his rights or file
24 a written objection to such termination with the court prior
25 to the hearing.] the following:

26 "To: (insert other parent's or birth, legal or putative
27 father's name)

28 A petition has been filed asking the court to put an
29 end to all rights you have to your child (insert name of
30 child). The court has set a hearing to consider ending

your rights to your child. That hearing will be held in
(insert place, giving reference to exact room and
building number or designation) on (insert date) at
(insert time). Your parental rights may be terminated as
a result of the hearing. Your rights may also be subject
to termination if you fail either to appear at the
hearing for the purpose of objecting to the termination
of your rights or to file a written objection to such
termination with the court prior to the hearing. You have
a right to be represented at the hearing by a lawyer. You
should take this paper to your lawyer at once. If you do
not have a lawyer or cannot afford one, go to or
telephone the office set forth below to find out where
you can get legal help.

(Name).....

(Address).....

.....

(Telephone number)....."

(b.1) Service.--Notice of the hearing shall be given to the
petitioner, the birth, legal or putative father. Notice shall
also be given to the custodial parent or parents or guardian or
guardians of a consenting birth parent who has not reached 18
years of age and who is not emancipated. Notice shall be given
by personal service or by registered or overnight mail to the
last known address or by such other means as the court may
require.

(c) Decree.--After the hearing, which shall be private, the
court may enter a decree of termination of parental rights in
the case of [their] relinquishment to an adult or a decree of
termination of parental rights and duties, including the

1 obligation of support, in the case of their relinquishment to an
2 agency.

3 (d) Putative father.--If a putative father will not [file a
4 petition to voluntarily relinquish his parental rights pursuant
5 to section 2501 (relating to relinquishment to agency) or 2502
6 (relating to relinquishment to adult intending to adopt child)]
7 execute a consent to an adoption as required under section 2711
8 (relating to consents necessary to adoption), has been given
9 notice of the hearing being held pursuant to this section and
10 fails [to] either to appear at that hearing for the purpose of
11 objecting to termination of his parental rights or to file a
12 written objection to [such] termination with the court prior to
13 the hearing [and has not filed an acknowledgment of paternity or
14 claim of paternity pursuant to section 5103], the court may
15 enter a decree terminating the parental rights of the putative
16 father pursuant to subsection (c).

17 (e) Right to file personal information.--At the time the
18 decree of termination is transmitted to [the] a known birth or
19 legal parent [whose rights are terminated] at the parent's last
20 known address, the court shall also advise [that parent,] in
21 writing[,] the parent whose rights have been terminated of his
22 or her right to appeal and to place personal information on file
23 with the court and with the Department of [Health] Public
24 Welfare pursuant to section 2905(d) (relating to [impounding of
25 proceedings] retention of and access to records).
26 [§ 2504. Alternative procedure for relinquishment.

27 (a) Petition to confirm consent to adoption.--If the parent
28 or parents of the child have executed consents to an adoption as
29 required by section 2711 (relating to consents necessary to
30 adoption) but have failed for a period of 40 days after

1 executing the consent to file or proceed with the petition for
2 voluntary relinquishment of parental rights provided for in this
3 subchapter, the intermediary may petition the court to hold a
4 hearing for the purpose of confirming the intention of the
5 parent or parents to voluntarily relinquish their rights and
6 duties as evidenced by the consent or consents to the adoption,
7 the original of which shall be attached to the petition. In the
8 case where there is no intermediary, the adoptive parent or
9 parents may file the petition.

10 (b) Hearing.--Upon presentation of a petition filed pursuant
11 to this section, the court shall fix a time for a hearing which
12 shall not be less than ten days after filing of the petition.
13 Notice of the hearing shall be by personal service or by
14 registered mail or by such other means as the court may require
15 upon the consenter and shall be in the form provided in section
16 2513(b) (relating to hearing). Notice of the hearing shall be
17 given to the other parent or parents, to the putative father
18 whose parental rights could be terminated pursuant to subsection
19 (c) and to the parents or guardian of a consenting parent who
20 has not reached 18 years of age. The notice shall state that the
21 consenting parent's or putative father's rights may be
22 terminated as a result of the hearing. After hearing, which
23 shall be private, the court may enter a decree of termination of
24 parental rights in the case of a relinquishment to an adult or a
25 decree of termination of parental rights and duties, including
26 the obligation of support, in the case of a relinquishment to an
27 agency.

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

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

9 (d) Right to file personal information.--At the time the
10 decree of termination is transmitted to the parent, the court
11 shall also advise, in writing, the parent whose rights have been
12 terminated of his or her right to place personal information on
13 file with the court and with the Department of Health pursuant
14 to section 2905(d) (relating to impounding of proceedings and
15 access to records).]

16 § 2505. [Counseling] Adoption counseling.

17 (a) List of counselors.--Any hospital [or], birthing center,
18 school-based health care program, teen pregnancy program or
19 other facility providing maternity care shall provide a list of
20 available counselors and counseling services compiled pursuant
21 to subsection (b) to its maternity patients or clients who are
22 known to be considering relinquishment or termination of
23 parental rights pursuant to this part. The patient or client
24 shall sign an acknowledgment of receipt of such list [prior to
25 discharge], a copy of which receipt shall be provided to the
26 [patient] individual.

27 (b) Compilation of list.--The court shall compile a list of
28 qualified counselors and counseling services (including all
29 adoption agencies) which provide adoption counseling services
30 and which are available to counsel [natural] birth parents

1 within the county who are contemplating relinquishment or
2 termination of parental rights pursuant to this part. [Such] The
3 list shall be distributed to every agency, hospital [or other
4 facility], birthing center, school-based health care program,
5 teen pregnancy program or other facility providing maternity
6 care within the county and shall be made available upon request
7 to any intermediary [or], licensed health care professional[.]
8 or member of the public.

9 (b.1) Referral for adoption counseling.--If a birth or legal
10 parent is considering an adoption plan or has executed a consent
11 to transfer custody pursuant to section 2502.1 (relating to
12 consents to transfer custody), the hospital, birthing center,
13 school-based health care program, teen pregnancy program or
14 other facility providing maternity care shall, with the
15 permission of the birth or legal parent, refer the individual to
16 a qualified counselor or counseling service for adoption
17 counseling. The counselor or counseling service providing
18 adoption counseling shall be reimbursed from the counseling
19 fund.

20 (c) [Court referral] Verification of adoption counseling.--
21 Prior to entering a decree of termination of parental rights
22 pursuant to [section 2503 (relating to hearing) or 2504
23 (relating to alternative procedure for relinquishment)] sections
24 2501 (relating to petition for voluntary relinquishment) and
25 2503 (relating to hearing), if the birth parent or legal parent
26 whose rights are to be terminated is present in court, the court
27 shall inquire whether he or she has received adoption counseling
28 concerning the termination and the alternatives thereto from an
29 agency or from a qualified counselor [listed by a court]
30 identified pursuant to subsection (b). If the parent has not

1 received such counseling, the court may, with the parent's
2 consent, refer the parent to an agency or qualified counselor
3 [listed by a court] identified pursuant to subsection (b) for
4 the purpose of receiving such counseling. In no event shall the
5 court delay the completion of any hearing pursuant to section
6 2503 [or 2504] for more than 15 days in order to provide for
7 such counseling.

8 [(d) Application for counseling.--Any parent who has filed a
9 petition to relinquish his or her parental rights, or has
10 executed a consent to adoption, and is in need of counseling
11 concerning the relinquishment or consent, and the alternatives
12 thereto, may apply to the court for referral to an agency or
13 qualified counselor listed by a court pursuant to subsection (b)
14 for the purpose of receiving such counseling. The court, in its
15 discretion, may make such a referral where it is satisfied that
16 this counseling would be of benefit to the parent.]

17 (e) Counseling fund.--Except as hereinafter provided, each
18 report of intention to adopt filed pursuant to section 2531
19 (relating to report of intention to adopt) shall be accompanied
20 by a filing fee in the amount of \$75 which shall be paid into a
21 segregated fund established by the county. The county may also
22 make supplemental appropriations to the fund. All costs of
23 adoption counseling provided pursuant to subsection (b.1) or (c)
24 [or (d) to individuals who are unable to pay for such
25 counseling] shall be paid from the fund. No filing fee [may be
26 exacted] is required under this subsection with respect to the
27 adoption of a [special needs] child with special needs who would
28 be eligible for adoption assistance pursuant to regulations
29 promulgated by the Department of Public Welfare. In addition,
30 the court may reduce or waive the fee in cases of demonstrated

1 financial hardship. The fund shall be used exclusively for
2 adoption counseling pursuant to this section.

3 § 2511. Grounds for involuntary termination.

4 (a) General rule.--[The] Where it would advance the needs
5 and welfare of the child, the rights of a parent in regard to a
6 child may be terminated [after a petition filed on any of the
7 following grounds] if the petitioner presents clear and
8 convincing evidence that:

9 (1) The parent by conduct continuing for a period of at
10 least six months immediately preceding the filing of the
11 petition either has evidenced a settled purpose of
12 relinquishing parental claim to a child or has refused or
13 failed to perform parental duties.

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

20 (3) The parent is the [presumptive] legal but not the
21 [natural] birth father of the child.

22 (4) The parent has failed to claim a child [is] in the
23 legal custody of an agency[, having been found under such
24 circumstances that the identity or whereabouts of the parent
25 is unknown and cannot be ascertained by diligent search and
26 the parent does not claim the child within] for a period of
27 at least three months after [the child is found] being made
28 the subject of a diligent search.

29 (5) The child has been removed from the care of the
30 parent by the court or under a voluntary agreement with an

1 agency for a period of at least six months, the conditions
2 which led to the removal or placement of the child continue
3 to exist, the parent cannot or will not remedy those
4 conditions within a reasonable period of time, the services
5 or assistance reasonably available to the parent are not
6 likely to remedy the conditions which led to the removal or
7 placement of the child within a reasonable period of time and
8 termination of the parental rights would best serve the needs
9 and welfare of the child.

10 (6) In the case of a newborn child, the parent knows or
11 has reason to know of the child's birth, does not reside with
12 the child, has not married the child's other parent, has
13 failed for a period of four months immediately preceding the
14 filing of the petition to make reasonable efforts to maintain
15 substantial and continuing contact with the child and has
16 failed during the same four-month period to provide
17 substantial financial support for the child.

18 (7) The parent is the father of a child [who was]
19 conceived as a result of a rape or incest.

20 (8) The parent cannot or will not provide for the care
21 or subsistence necessary to the child's physical or emotional
22 well-being and will not within a period of time that is
23 reasonable considering the child's age and perception of time
24 be able to accept parenting responsibility.

25 (9) The parent has committed acts of life-endangering
26 child abuse.

27 (10) The parent is the legal father but not the birth
28 father of the child.

29 (11) The father's identity or whereabouts is unknown.

30 (12) The child has been removed from the care of the

1 parent by the court or under a voluntary agreement with an
2 agency, the conditions which led to the removal or placement
3 of the child continue to exist, the parent has not remedied
4 those conditions within 18 months from the date of removal or
5 placement, the services or assistance reasonably available to
6 the parent have not remedied the conditions which led to the
7 removal or placement of the child within 18 months from the
8 date of removal or placement and termination of parental
9 rights would best serve the needs and welfare of the child.

10 (b) Other considerations.--The court in terminating the
11 rights of a parent shall give primary consideration to the
12 developmental, physical and emotional needs and welfare of the
13 child. In addition, the court shall consider the expressed
14 wishes of the child.

15 (b.1) Petition not to be denied.--A termination petition
16 shall not be denied solely because an adoptive home is not
17 immediately available or the court deems the child to be
18 unadoptable.

19 (b.2) Environmental factors.--The rights of a parent shall
20 not be terminated solely on the basis of environmental factors,
21 such as inadequate housing, furnishings, income, clothing and
22 medical care, if found to be beyond the control of the parent.
23 With respect to any petition filed pursuant to subsection (a)(1)
24 or (6), the court shall not consider any efforts by the parent
25 to remedy the conditions described therein which are [first]
26 initiated subsequent to the giving of notice of the filing of
27 the petition.

28 (c) Right to file personal information.--At the time the
29 decree of termination is transmitted to the parent whose rights
30 have been terminated, the court shall advise the parent, in

1 writing, of his or her right to place personal information on
2 file with the court and with the Department of [Health] Public
3 Welfare pursuant to section 2905(d)(2) (relating to [impounding
4 of proceedings] retention of and access to records).

5 § 2512. Petition for involuntary termination.

6 (a) Who may file.--A petition to terminate parental rights
7 with respect to a child under the age of 18 years may be filed
8 by any of the following:

9 (1) Either parent when termination is sought with
10 respect to the other parent.

11 (2) An agency.

12 (3) The individual having custody or standing in loco
13 parentis to the child and who has filed a report of intention
14 to adopt required by section 2531 (relating to report of
15 intention to adopt).

16 (4) A child who has been adjudicated dependent under 42
17 Pa.C.S. § 6341 (relating to adjudication).

18 (b) Contents.--The petition shall set forth specifically
19 those grounds and facts alleged as the basis for terminating
20 parental rights. The petition filed under this section shall
21 also contain an averment that the petitioner will assume custody
22 of the child until such time as the child is adopted, except
23 that, if the petition is filed under subsection (a)(4), it shall
24 contain an agency's or individual's consent to assume custody
25 until the child is adopted. If the petitioner is an agency it
26 shall not be required to aver that an adoption is presently
27 contemplated nor that a person with a present intention to adopt
28 exists.

29 (c) Father not identified.--If the petition does not
30 identify the father of the child, it shall state whether a claim

1 of paternity has been filed under section [8303 (relating to]
2 5103 (relating to acknowledgment and claim of paternity).
3 § 2513. Hearing.

4 (a) Time.--The court shall fix a time for hearing on a
5 petition filed under section 2512 (relating to petition for
6 involuntary termination) which shall be not less than ten nor
7 more than 30 days after filing of the petition, except at the
8 request of a party.

9 (b) Notice.--At least ten days' notice shall be given to the
10 parent or parents, legal father, putative father, or parent of a
11 [minor] birth parent who has not reached 18 years of age and who
12 is not emancipated, whose rights are to be terminated, by
13 personal service or by registered mail to his or their last
14 known address or by such other means as the court may require.
15 [A copy of the notice shall be given in the same manner to the
16 other parent, putative father or parent or guardian of a minor
17 parent whose rights are to be terminated.] A putative father
18 shall include one who has filed a claim of paternity as provided
19 in section 5103 (relating to acknowledgment and claim of
20 paternity) prior to the institution of proceedings. The notice
21 shall state the following:

22 "A petition has been filed asking the court to put an end
23 to all rights you have to your child (insert name and date of
24 birth of child). The court has set a hearing to consider
25 ending your rights to your child. That hearing will be held
26 in (insert place, giving reference to exact room and building
27 number or designation) on (insert date) at (insert time). You
28 are warned that even if you fail to appear at the scheduled
29 hearing, the hearing will go on without you and your rights
30 to your child may be ended by the court without your being

1 present. You have a right to be represented at the hearing by
2 a lawyer. You should take this paper to your lawyer at once.
3 If you do not have a lawyer or cannot afford one, go to or
4 telephone the office set forth below to find out where you
5 can get legal help.

6 (Name).....

7 (Address).....

8

9 (Telephone number)....."

10 (c) Mother competent witness on paternity issue.--The
11 [natural] birth mother shall be a competent witness as to
12 whether the [presumptive] legal or putative father is the
13 [natural] birth father of the child or if the father is unknown.

14 (c.1) Unknown father.--If the ground for involuntary
15 termination is that the birth father is unknown, the petitioner
16 shall set forth the circumstances which preclude giving notice
17 to the birth father in accordance with section 2503 (relating to
18 hearing). If at the hearing the birth father is identified to
19 the satisfaction of the court or if more than one man is
20 identified as a possible father, each shall be given notice of
21 the postponed proceeding in accordance with this section. The
22 court shall determine whether publication or public posting of
23 notice of the proceeding is likely to lead to identification
24 and, if so, shall order publication or public posting at times,
25 in places and in such manner as it deems appropriate.

26 (d) Decree.--After hearing, which may be private, the court
27 shall make a finding relative to the pertinent provisions of
28 section 2511 (relating to grounds for involuntary termination)
29 and upon such finding may enter a decree of termination of
30 parental rights. A decision shall be rendered within 60 days

1 after the close of evidence. If, after the inquiry regarding an
2 unknown father, the court is unable to identify the birth father
3 or any possible birth father and no person has appeared claiming
4 to be the birth father, the court shall enter a decree of
5 termination of parental rights with respect to the unknown
6 father. After 30 days following its entry, the order cannot be
7 challenged by any person in any manner or upon any ground.

8 Section 4. Title 23 is amended by adding sections to read:

9 § 2514. Representation for child and indigent parent in
10 involuntary termination proceedings.

11 (a) Child.--The court shall appoint counsel to represent the
12 child in an involuntary termination proceeding when the
13 proceeding is being contested by one or both of the parents.

14 (b) Parent.--The court shall appoint counsel for a parent
15 whose rights are subject to termination in an involuntary
16 termination proceeding if, upon petition of the parent, the
17 court determines that the parent is unable to pay for counsel or
18 if payment would result in substantial financial hardship.

19 § 2515. Payment of legal fees for child.

20 (a) General rule.--The court in its discretion may order all
21 or part of fees for representation of the child attendant to the
22 adoption proceedings under this part to be paid by the county of
23 residence of the child.

24 (b) Adopting parents.--Adoptive parents may also be directed
25 by the court to pay a portion of fees for representation of the
26 child. The amount adoptive parents may be directed to pay may
27 not exceed 50% of legal fees and costs incurred.

28 Section 5. Sections 2530(a), 2533, 2535, 2551, 2552, 2553,
29 2554, 2555 and 2558 of Title 23 are amended to read:

30 § 2530. Home study and preplacement report.

1 (a) General rule.--No [intermediary shall place a] child
2 shall be placed in the physical care or custody of a prospective
3 adoptive parent or parents other than relatives identified in
4 section 2531(c) (relating to report of intention to adopt)
5 unless a home study containing a favorable recommendation for
6 placement of a child with the prospective parent or parents has
7 been completed within three years prior thereto and [which has
8 been] supplemented within one year prior thereto. The home study
9 shall be conducted by a local public child-care agency, an
10 adoption agency or a licensed social worker designated by the
11 court to perform such study.

12 * * *

13 § 2533. Report of intermediary.

14 (a) General rule.--Within [six] three months after filing
15 the report of intention to adopt, the intermediary who or which
16 arranged the adoption placement of any child under the age of 18
17 years shall make a written report under oath to the court in
18 which the petition for adoption will be filed [and shall
19 thereupon forthwith]. The intermediary shall immediately notify
20 in writing the [adopting] adoptive parent or parents [of the
21 fact] that the report has been filed and of the date thereof.

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

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

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

26 (3) The date of the placement of the child with the
27 [adopting] adoptive parent or parents.

28 (4) The name, racial background, age, marital status as
29 of the time of birth of the child and during one year prior
30 thereto, and religious affiliation of the parents of the

1 child.

2 (5) Identification of proceedings in which any decree of
3 termination of parental rights[, or parental rights] and
4 duties, with respect to the child was entered.

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

7 (7) A statement that all consents required by section
8 2711 (relating to consents necessary to adoption) are
9 attached as exhibits or the basis upon which the consents are
10 not required.

11 [(8) An itemized accounting of moneys and consideration
12 paid or to be paid to or received by the intermediary or to
13 or by any other person or persons to the knowledge of the
14 intermediary by reason of the adoption placement.]

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

17 (10) A statement [that no provision of any statute
18 regulating the interstate placement of children has been
19 violated with respect to the placement of the child] of
20 approval from the Department of Public Welfare indicating
21 that conditions of the act of June 13, 1967 (P.L.31, No.21),
22 known as the Public Welfare Code, relating to the interstate
23 placement of children have been met.

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

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

30 (13) A statement that the opportunity for adoption

counseling was offered to the birth parent or parents and whether the counseling was accepted or declined.

(14) A statement indicating whether the child is a child with special needs.

(15) A statement indicating whether adoption assistance pursuant to the Subchapter F (relating to adoption assistance program) is being provided.

[(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.]

(c.1) Supplemental disclosure of fees and charges.--At least five days before the date of the hearing, all of the following must occur:

(1) The adoptive parent or parents shall file with the court a signed, verified accounting of any payment or disbursement of money or anything of value made or agreed to be made by or on behalf of each petitioner in connection with the adoption. The accounting must include the date and amount of each payment or disbursement made, the name and address of each recipient and the purpose of each payment or disbursement.

(2) The attorney for the adoptive parent or parents shall file with the court an affidavit itemizing any fee, compensation and other thing of value received by or agreed to be paid to the attorney for or incidental to the placement and adoption of the minor.

(3) The attorney for each birth or legal parent of the adoptee shall file with the court an affidavit itemizing any fee, compensation and other thing of value received by or agreed to be paid to the attorney for or incidental to the

1 placement and adoption of the minor.

2 (4) Each birth or legal parent of the adoptee shall file
3 with the court an affidavit itemizing any fee, compensation
4 and other thing of value received by or agreed to be paid to
5 the birth or legal parent for or incidental to the placement
6 and adoption of the minor.

7 (5) The agency, if any, that placed the adoptee and
8 consented to the adoption shall file with the court an
9 affidavit itemizing any fee, compensation and other thing of
10 value received by the agency for or incidental to the
11 placement and adoption of the minor.

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

18 (1) Medical and hospital expenses incurred by the
19 [natural] birth mother for prenatal care and those medical
20 and hospital expenses incurred by the [natural] birth mother
21 and child incident to birth.

22 (2) Medical, hospital and foster care expenses incurred
23 on behalf of the child prior to the decree of adoption.

24 (3) Reasonable expenses [incurred by the agency or a
25 third party] for adjustment counseling [and], training
26 services and home studies or investigations provided to the
27 child and the adoptive parent or parents [and for home
28 studies or investigations].

29 (4) Reasonable [administrative expenses] costs incurred
30 [by the agency], to include overhead costs and attorney

1 fees[.] as approved by the court.

2 (e) Appropriate relief.--The court shall review the reports
3 submitted pursuant to this section, make a determination as to
4 the reasonableness of the fees and charges and provide
5 appropriate relief where it finds the moneys or consideration
6 reported or reportable to be excessive.

7 § 2535. Investigation.

8 (a) General rule.--When a report required by section 2531
9 (relating to report of intention to adopt) has been filed, the
10 court shall cause an investigation to be made and a report filed
11 by a local public child care agency, [a voluntary child care
12 agency with its consent or an appropriate person designated by
13 the court.] an agency providing adoption services with the
14 agency's consent or a licensed social worker designated by the
15 court. The investigation shall be initiated within ten days of
16 receipt of the report of intention to adopt. In lieu of the
17 investigation, the court may accept an investigation made by the
18 agency [which placed the child] providing adoption services if
19 the report was conducted within the previous 12 months, and the
20 report of investigation in such cases may be incorporated into
21 the report of the intermediary required by section 2533
22 (relating to report of intermediary).

23 (b) Matters covered.--The investigation shall include a
24 visit to the home of the adoptive parents and shall cover all
25 pertinent information regarding the child's eligibility for
26 adoption and the suitability of the placement, including the
27 physical, mental and emotional needs and welfare of the child,
28 and the child's and the [adopting] adoptive parents' age, sex,
29 health and racial, ethnic and religious background. In addition,
30 the report shall include the results of the child abuse and

1 criminal history clearances required by section 6344 (relating
2 to information relating to prospective child-care personnel).

3 (c) Payment of costs.--The court may establish the procedure
4 for the payment of investigation costs.

5 § 2551. Definitions.

6 The following words and phrases when used in this subchapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "ACE." The Adoption Cooperative Exchange established in
10 section 2552 (relating to adoption cooperative exchange).

11 "Department." The Department of Public Welfare of the
12 Commonwealth.

13 ["PACE." The Pennsylvania Adoption Cooperative Exchange.]

14 § 2552. [Pennsylvania] Adoption Cooperative Exchange.

15 There shall be [a Pennsylvania] an Adoption Cooperative
16 Exchange in the Office of Children, Youth and Families of the
17 Department of Public Welfare.

18 § 2553. Registration of children.

19 (a) Mandatory registration.--[PACE] ACE shall register and
20 be responsible for the review and referral of children for whom
21 parental rights have been terminated for [90] 45 days and for
22 whom no report of intention to adopt has been filed in the court
23 of common pleas.

24 (b) Optional registration.--[PACE may also]

25 (1) ACE may register children where restoration to the
26 [biological] birth family is neither possible nor
27 appropriate, a petition to terminate parental rights has been
28 filed and adoption is planned pending identification of an
29 adoptive parent or parents. [However, information]

30 (2) ACE may register children with a court-approved goal

1 of adoption when the court approval has not been appealed
2 within 30 days and no petition to terminate parental rights
3 has been filed.

4 (3) Information about these children shall not be
5 publicized without prior approval by the department, which
6 shall ensure the anonymity of these children until such time
7 as parental rights are terminated.

8 (c) Children excluded from registration.--

9 (1) A child for whom termination of parental rights is
10 being appealed in a court shall not be registered with [PACE]
11 ACE as available for adoption. [Identifying information of
12 such children shall be forwarded to PACE by the agency, with
13 reference to the specific reason for which the child is not
14 to be placed on the listing service.]

15 (2) A child registered with ACE may be withdrawn at the
16 request of the agency having custody if the withdrawal is
17 based on criteria established by regulation.

18 § 2554. Responsibilities of [PACE] ACE.

19 [PACE] ACE shall be responsible for the following:

20 (1) Registration of adoptive parent applicants who have
21 been approved by agencies.

22 (2) Accumulation and dissemination of statistical
23 information regarding all children registered with [PACE]
24 ACE.

25 (3) Creation and administration of a public information
26 program designed to inform potential adoptive parents of the
27 need for adoptive homes for children registered with [PACE]
28 ACE.

29 (4) Preparation and distribution of a photographic
30 listing service on children registered with [PACE] ACE.

1 (5) Preparation of annual reports concerning functions
2 of [PACE] ACE regarding the children and the prospective
3 parents listed with [PACE] ACE. The reports shall be
4 submitted annually by June 1 to the [Health and Welfare and
5 Judiciary Committees] Governor and the appropriate standing
6 committees of the House of Representatives[, to the Public
7 Health and Welfare and Judiciary Committees] and of the
8 Senate [and to the Governor].

9 (6) Coordination of its functions with other state,
10 regional and national adoption exchanges.

11 § 2555. Responsibilities of public and private agencies.

12 (a) Registration of children.--All public and licensed
13 private child service agencies shall register all children with
14 [PACE] ACE for whom parental rights have been terminated for
15 [90] 45 days and for whom no report of intention to adopt has
16 been filed in the court of common pleas. A public or licensed
17 private agency may register other children as set forth in
18 section 2553(b) (relating to registration of children).

19 (b) Registration of applicants.--All public and licensed
20 private child service agencies shall register all approved
21 adoptive parent applicants with their consent who express an
22 interest in children with special needs.

23 § 2558. Retroactive application of subchapter.

24 This subchapter shall apply retroactively to all children for
25 whom:

26 (1) Parental rights have been terminated and for whom no
27 report of intention to adopt has been filed in the court of
28 common pleas.

29 (2) Restoration to the [biological] birth family is
30 neither possible nor appropriate, a petition to terminate

parental rights has been filed and adoption is planned
pending identification of an adoptive parent or parents.

(3) Parental rights have not been terminated and for
whom there is a court-approved goal of adoption under section
2553(b)(2) (relating to registration of children).

Section 6. Chapter 25 of Title 23 is amended by adding a
subchapter to read:

SUBCHAPTER F

ADOPTION ASSISTANCE PROGRAM

Sec.

2561. Purpose.

2562. Definitions.

2563. Rules and regulations.

2564. Adoption assistance payments and reimbursement.

§ 2561. Purpose.

The purpose of this subchapter is to encourage and promote
the adoption of children who are physically, intellectually or
emotionally disabled or difficult to place by virtue of age,
sibling relationship or ethnicity.

§ 2562. Definitions.

The following words and phrases when used in this subchapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Adoption assistance." Benefits provided to an adoptive
family on behalf of an eligible child, which may include medical
assistance and other applicable special services, a monthly cash
payment or reimbursement of nonrecurring adoption expenses.

"Child." An individual who is under 21 years of age.

"Department." The Department of Public Welfare of the
Commonwealth.

1 "Eligible child." A child certified by a county children and
2 youth agency as to the following:

3 (1) the child's parental rights have been terminated
4 pursuant to the chapter;

5 (2) the child is in the legal custody of the county
6 children and youth agency or another agency approved by the
7 Department of Public Welfare; and

8 (3) the adoptive placement of the child may be difficult
9 due to a physical, intellectual or emotional disability or by
10 virtue of age, sibling relationship or ethnicity.

11 "Nonrecurring adoption expenses." Costs for home-study fees,
12 court costs, attorney fees and travel costs necessary to
13 complete the placement or adoption process.

14 § 2563. Rules and regulations.

15 (a) Duty of department.--The department shall establish and
16 develop criteria and promulgate regulations necessary for county
17 children and youth agencies to implement the adoption assistance
18 program in accordance with the provisions of this subchapter and
19 sections 470 through 476 of the Social Security Act (49 Stat.
20 620, 42 U.S.C. §§ 670 through 676).

21 (b) Content of regulations.--The regulations shall include,
22 but not be limited to, criteria for identifying eligible
23 children and adoptive homes, procedures for implementing the
24 adoption assistance agreement and reporting requirements by
25 county children and youth agencies.

26 (c) Adoption of regulations.--All regulations established
27 pursuant to this section shall be adopted pursuant to the act of
28 July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth
29 Documents Law, and the hearings referred to in section 202 of
30 that act shall be mandatory.

1 § 2564. Adoption assistance payments and reimbursement.

2 (a) Payments.--The amount of adoption assistance cash
3 payment made to an adoptive family shall not exceed the monthly
4 payment rate for foster family care in the county in which the
5 child was determined eligible. For purposes of reimbursement of
6 nonrecurring adoption expenses, an eligible child need not be in
7 the legal custody of a county children and youth agency or other
8 agency approved by the department.

9 (b) Reimbursement to county.--The department shall reimburse
10 county children and youth agencies for at least 80% of the cost
11 of adoption assistance provided by the county children and youth
12 agency pursuant to the provisions of this subchapter, provided
13 the agency complies with the reporting requirements established
14 by the department pursuant to section 2563 (relating to rules
15 and regulations).

16 (c) Exhaustion of benefits.--No public funds shall be
17 expended under this subchapter on behalf of an eligible child
18 until all available benefits under existing or future private or
19 Federal, State or local programs have been exhausted.
20 Notwithstanding any other provision of law, adoptive families
21 subsidized under the provisions of this subchapter shall not be
22 liable under the act of June 24, 1937 (P.L.2045, No.397), known
23 as The Support Law, or the act of October 20, 1966 (3rd
24 Sp.Sess., P.L.96, No.6), known as the Mental Health and Mental
25 Retardation Act of 1966, in the event the adopted child needs
26 services or assistance under the provisions of the Mental Health
27 and Mental Retardation Act of 1966 or under Article IV of the
28 act of June 13, 1967 (P.L.31, No.21), known as the Public
29 Welfare Code.

30 Section 7. Sections 2711, 2712, 2721, 2724, 2725, 2901,

1 2905, 2906, 2907, 2908, 2909 and 2910 of Title 23 are amended to
2 read:

3 § 2711. Consents necessary to adoption.

4 (a) General rule.--Except as otherwise provided in this
5 part, consent to an adoption shall be required of the following:

6 (1) The adoptee, if over 12 years of age.

7 (2) The spouse of the adopting parent, unless they join
8 in the adoption petition.

9 (3) The birth parents or surviving birth parent of an
10 adoptee who has not reached the age of 18 years and who is
11 not emancipated.

12 (4) The guardian of an incapacitated adoptee.

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

18 (b) [Husband of natural mother] Legal father.--The consent
19 of the [husband of the mother] legal father shall not be
20 necessary if, after notice to the [husband] legal father, it is
21 proved to the satisfaction of the court by evidence, including
22 testimony of the [natural] birth mother, that the [husband of
23 the natural mother] legal father is not the [natural] birth
24 father of the child. Absent such proof, the consent of a former
25 [husband of the natural mother] legal father shall be required
26 if he was the [husband of the natural mother] legal father at
27 any time within one year prior to the birth of the adoptee.

28 (c) Validity of consent.--No consent shall be valid if it
29 was executed prior to or within 72 hours after the birth of the
30 child. A putative father may execute a consent at any time after

1 receiving notice of the expected or actual birth of the child.
2 [Any consent given outside this Commonwealth shall be valid for
3 purposes of this section if it was given in accordance with the
4 laws of the jurisdiction where it was executed.] A consent to an
5 adoption may only be revoked prior to the earlier of either the
6 entry of a decree of termination of parental rights or the entry
7 of a decree of adoption. The revocation of a consent shall be in
8 writing and shall be served upon the agency or adult to whom the
9 child was relinquished.

10 (c.1) Other consents.--Consent given outside this
11 Commonwealth shall be valid for purposes of this section if it
12 was given in accordance with subsection (d) or the laws of the
13 jurisdiction where it was executed. Consent to the termination
14 of parental rights by a Commonwealth resident in the form
15 permitted by another state shall be unenforceable for a period
16 of 72 hours after signing and must be accompanied by the
17 following statement:

18 "WARNING

19 You have been asked to sign a consent to terminate your
20 parental right according to the laws of
21 _____ (state name must be included).
22 This will permit the child's adoption. This consent may
23 terminate your rights forever. As a Pennsylvania
24 resident, you are not required to sign the consent. As a
25 Pennsylvania resident, you are entitled to a hearing
26 before a judge, representation by an attorney and
27 counseling regarding your rights and alternatives to
28 adoption. If you want counseling, do not sign the consent
29 and immediately contact:

30

(Social service agency)

(Address)

(Telephone number)

I have read this warning, I am freely and voluntarily signing the warning, and I acknowledge receipt of a copy of the warning.

(Name)

(Witness).....

(Relationship to consentor).."

(d) Contents of consent.--

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

[I hereby voluntarily and unconditionally consent to the adoption of the above named child.]

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

I understand [such] the child will be placed for adoption.

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

I understand I may revoke this consent to permanently give up all rights to this child, only until a court has entered a decree confirming this consent, by placing the

1 revocation in writing and serving it upon the agency or
2 adult to whom the child was relinquished.

3 I understand I may not revoke this consent after a
4 court has entered a decree confirming this consent or
5 otherwise terminating my parental rights to this child.
6 Even if a decree has not been entered terminating my
7 parental rights I may not revoke this consent after a
8 decree of adoption of this child is entered.

9 I understand that I have the right to be represented
10 by an attorney regarding the termination of my parental
11 rights. If I cannot afford an attorney, at any time
12 before the termination of my rights, the court may
13 appoint an attorney for me upon my request.

14 I understand that I have the right to attend a
15 hearing regarding the termination of my rights. I may
16 choose to not attend a hearing if I am satisfied that I
17 have received counseling about the termination of my
18 parental rights and the alternatives.

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

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

25 § 2712. Consents not naming [adopting] adoptive parents.

26 A consent to a proposed adoption meeting all the requirements
27 of this part but which [does not name or otherwise identify]
28 excludes for the purpose of confidentiality the identity of the
29 [adopting] adoptive parent or parents shall be valid if it
30 contains a statement that it is voluntarily executed without

1 disclosure of the name or other identification of the adopting
2 parent or parents.

3 § 2721. Notice of hearing and service.

4 (a) Hearing.--The court shall fix a time and place for
5 hearing which shall be held within 30 days of the filing of the
6 petition except for good cause shown by a party. Notice of the
7 hearing shall be given to all persons whose consents are
8 required and to such other persons as the court shall direct.

9 (b) Notice.--Notice to the birth, legal or putative parent
10 or parents of the adoptee, if required, may be given by the
11 intermediary or someone acting on his behalf. Notice shall be by
12 personal service or by registered mail or overnight mail to the
13 last known address of the person to be notified or in such other
14 manner as the court shall direct.

15 § 2724. Testimony and investigation.

16 (a) Testimony.--The court shall hear testimony in support of
17 the petition and such additional testimony as it deems necessary
18 to inform it as to the desirability of the proposed adoption. It
19 shall require a disclosure of all moneys and consideration paid
20 or to be paid to any person or institution in connection with
21 the adoption.

22 (b) Investigation.--The court may request that an
23 investigation be made by a [person or] public agency or, with
24 its consent, [a voluntary] an agency providing adoption services
25 or a licensed social worker, specifically designated by the
26 court to verify the statements of the petition and such other
27 facts that will give the court full knowledge of the
28 desirability of the proposed adoption, or the court may rely in
29 whole or in part upon a report [earlier made] completed within
30 the past year. The investigation shall include a visit to the

1 home of the adoptive parents and shall cover matters listed
2 under section 2535 (relating to investigation). In any case, the
3 age, sex, health, social and economic status or racial, ethnic
4 or religious background of the child or [adopting] adoptive
5 parents shall not preclude an adoption but the court shall
6 decide its desirability on the basis of the physical, mental and
7 emotional needs and welfare of the child.

8 (c) Payment of investigation costs.--The court may establish
9 a procedure for the payment of investigation costs by the
10 petitioners or by such other persons as the court may direct.
11 § 2725. Religious belief.

12 The intermediary may honor the preference of the [natural]
13 birth parents as to the religious faith in which the adoptive
14 parents intend to rear the adopted child. No person shall be
15 denied the benefits of this part because of a religious belief
16 in the use of spiritual means or prayer for healing.

17 § 2901. Time of entry of decree of adoption.

18 Unless the court for cause shown determines otherwise, no
19 decree of adoption shall be entered unless the [natural] birth
20 parent or parents' rights have been terminated, the
21 investigation required by section 2535 (relating to
22 investigation) has been completed, the report of the
23 intermediary has been filed pursuant to section 2533 (relating
24 to report of intermediary) and all other legal requirements have
25 been met. If all legal requirements have been met, the court may
26 enter a decree of adoption at any time.

27 § 2905. [Impounding of proceedings] Retention of and access to
28 records.

29 (a) General rule.--

30 (1) All petitions, exhibits, reports, notes of

1 testimony, decrees, and other papers pertaining to any
2 proceeding under this part or former statutes relating to
3 adoption shall be kept in the files of the court as a
4 permanent record thereof and withheld from inspection except
5 on an order of court granted upon cause shown or except as
6 otherwise provided in this section. [Any report required to
7 be filed under sections 2530 (relating to home study and
8 preplacement report), 2531 (relating to report of intention
9 to adopt) and 2535 (relating to investigation) shall be made
10 available to parties to an adoption proceeding only after all
11 identifying names and addresses in the report have been
12 extirpated by the court.]

13 (2) Agencies and intermediaries involved in adoptions
14 shall maintain records on all related activities and make
15 them available as required by this chapter.

16 (3) Agencies and intermediaries involved in adoptions
17 shall provide information regarding a birth parent's or
18 adoptee's desire to make identifying information available
19 directly to the adoption registry.

20 (4) Prior to entering a decree of adoption, the court
21 shall provide the birth parents with information regarding
22 the adoption registry.

23 (b) [Petition to court for limited] Access to nonidentifying
24 information.--[Upon petition by any]

25 (1) An adoptee at least 18 years of age, or, if less
26 than 18, his adoptive parent or legal guardian [to the court
27 in the judicial district in which the permanent records
28 relating to the adoption have been impounded, the court shall
29 furnish to the adoptee as much] or any adult birth sibling of
30 the adoptee may request nonidentifying information concerning

1 the [adoptive's natural] adoptive or his birth parents [as will
2 not endanger the anonymity of the natural parents. The
3 information shall first be reviewed, in camera, by the court
4 to insure that no information is revealed which would
5 endanger the anonymity of the natural parents. The court
6 shall, upon motion of the adoptee, examine the entire record
7 to determine if any additional information can safely be
8 revealed without endangering the anonymity of the natural
9 parents].

10 (2) Requests for nonidentifying information shall be
11 submitted to the agency or intermediary involved in the
12 adoption or to the adoption registry established by the
13 Department of Public Welfare pursuant to section 2912
14 (relating to adoption registry).

15 (3) Nothing in this section shall prohibit an adoptee at
16 least 18 years of age, or, if less than 18, his adoptive
17 parent or legal guardian or any adult birth sibling of the
18 adoptive from petitioning the court for nonidentifying
19 information without exhausting the provisions of subsection
20 (g), or when the agency, intermediary or adoption registry
21 has failed to respond to a request for access or to
22 disseminate information in a timely or unsatisfactory
23 fashion, or when a negative response to the request has been
24 received from the adoptee, adult birth sibling or birth
25 parent in a health emergency.

26 (4) In instances of a health emergency, the court,
27 agency, intermediary or adoption registry shall contact the
28 adoptive, adult birth sibling or birth parent with knowledge
29 of the requested nonidentifying information to determine the
30 individual's willingness to provide the information.

1 (5) Neither identifying information nor nonidentifying
2 information which may endanger the identity of the adoptee or
3 birth parents shall be released by the court, agency,
4 intermediary or registry.

5 (c) Access to [identity of natural parents] identifying
6 information.--

7 (1) [Upon petition of an adoptee at least 18 years of
8 age or, if less than 18, his adoptive parent or legal
9 guardian, the court may also, through its designated agent,
10 attempt to contact the natural parents, if known, to obtain
11 their consent to release their identity and present place of
12 residence to the adoptee]. Any adoptee at least 18 years of
13 age, or, if less than 18, his adoptive parent or legal
14 guardian, or any adult birth sibling of the adoptee may
15 request information which identifies his birth relatives of
16 the first degree from the agency or intermediary involved in
17 the adoption or from the adoption registry. The [petition
18 may] request shall be submitted to the agency or intermediary
19 involved in the adoption or to the adoption registry and must
20 state the reasons why the [adoptee] requestor desires to
21 contact [his natural parents] the adoptee's birth relatives,
22 which reasons shall be disclosed to the [natural parents]
23 birth relatives if contacted. [However, the court and its
24 agents shall take care that none but the natural parents
25 themselves are informed of the adoptee's existence and
26 relationship to them. The court may refuse to contact the
27 natural parents if it believes that, under the circumstances,
28 there would be a substantial risk that persons other than the
29 natural parents would learn of the adoptee's existence and
30 relationship to the natural parents. The court shall appoint

1 either the county children and youth agency, or a private
2 agency which provides adoption services in accordance with
3 standards established by the Department of Public Welfare, to
4 contact the natural parents as its designated agent.

5 (2) In addition to petitioning the court to contact the
6 natural parents, an adoptee at least 18 years of age or, if
7 less than 18, his adoptive parent or legal guardian may
8 request the agency that placed the adoptee to contact his
9 natural parents. If the agency agrees to attempt to contact
10 the natural parents, it shall do so pursuant to the same
11 safeguards provided for court inquiries in paragraph (1).

12 (3) If the court or an agency contacts the natural
13 parents of an adoptee pursuant to a petition or request made
14 under paragraph (1) or (2), except as hereinafter provided,
15 information]

16 (2) If an agency or intermediary receives a request for
17 identifying information, the agency or intermediary shall
18 immediately notify the adoption registry. If both the birth
19 parent and the adoptee have indicated a willingness to be
20 identified, the adoption registry shall provide the
21 appropriate information to the requestor.

22 (3) Information relating to both [natural] birth parents
23 shall [only] be disclosed to the [adoptive] requestor only if
24 both [natural] birth parents agree to the disclosure. If both
25 of the [natural] birth parents are deceased, their identities
26 may be disclosed. If one parent is deceased, his or her
27 identity may be disclosed. If only one parent agrees to the
28 disclosure, then only the information relating to the
29 agreeing parent shall be disclosed.

30 [(4) The Department of Public Welfare may, by

1 regulation, prescribe procedures related to contact of
2 natural parents by designated agents of the court.]

3 (4) If the adoptee or an adult birth sibling requests
4 access to identifying information about the other, the
5 agency, intermediary or adoption registry must obtain the
6 consent of the birth parents pursuant to paragraph (3) if the
7 sibling is less than 18 years of age. If the sibling is also
8 an adoptee, no consent by the birth parent shall be required.

9 (5) Nothing in this section shall prohibit an adoptee at
10 least 18 years of age, or, if less than 18, his adoptive
11 parent or legal guardian, or any adult birth sibling of the
12 adoptee from petitioning the court for identifying
13 information without exhausting the provisions of subsection
14 (g), or when the agency, intermediary or adoption registry
15 has failed to respond to a request for access or to
16 disseminate information in a timely or satisfactory fashion,
17 or when a negative response to the request has been received
18 from the adoptee, adult birth sibling or birth parent in a
19 health emergency. The court may request and shall receive
20 assistance from the county children and youth agency or the
21 adoption registry. The requirements of paragraphs (2) and (4)
22 and subsection (g) shall apply to the court.

23 (d) Disclosure of information on original certificate of
24 birth.--

25 (1) No disclosure of information shall be made by the
26 court, an agency, the Department of Health or any other
27 Commonwealth agency regarding the adopted person's original
28 certificate of birth or regarding the documents of proof on
29 which the amended certificate of birth is based or relating
30 in any way to the [natural] birth parents unless the

1 disclosure is made pursuant to the provisions of this
2 section.

3 (2) Notwithstanding any other provision in this section
4 to the contrary, the [natural] birth parents may, at the time
5 of the termination of their parental rights pursuant to
6 Chapter 25 (relating to proceedings prior to petition to
7 adopt) or at any time thereafter, place on file[, with the
8 court and with the Department of Health,] with the adoption
9 registry a consent form granting permission [for the court or
10 the department] to disclose the information contained in the
11 adoptee's original certificate of birth, or any other
12 identifying or nonidentifying information pertaining to the
13 [natural] birth parents, at any time after the adoptee
14 attains the age of 18 or, if less than 18, to his adoptive
15 parent or legal guardian. If both birth parents give their
16 consent, the information on the birth certificate may be
17 disclosed. If only one parent gives consent, only the
18 identity of the consenting parent shall be disclosed. The
19 [natural] birth parents shall be entitled to update those
20 records, as necessary, to reflect the [natural] birth
21 parent's current address or any other information pertaining
22 to the [natural] birth parents. The information may [only] be
23 disclosed only upon the request of the adoptee or his
24 adoptive parent or legal guardian[, and the]. The consent of
25 the [natural] birth parents may be withdrawn at any time by
26 filing a withdrawal of consent form with the [court and the
27 department] adoption registry. The [department] Department of
28 Public Welfare shall prescribe by regulation the procedure
29 and forms to be utilized for the giving, updating and
30 withdrawal of [the] consent pertaining to the original birth

1 certificate.

2 (e) Disclosure and update of other information.--At any time
3 a birth parent or adoptee may notify the court, agency or
4 intermediary involved in the adoption or the adoption registry
5 of his or her willingness to release nonidentifying or
6 identifying information. The parent or adoptee may also amend
7 medical or social information contained in the records or
8 request dissemination of any medical information which may
9 adversely affect the health of birth relatives or their
10 offspring.

11 (f) Fees.--

12 (1) The court, agency, intermediary and adoption
13 registry may charge a fee to access information pursuant to
14 subsections (b) and (c). The fee shall be limited to actual
15 costs for the following activities directly related to the
16 request: copying, mailing, telephone calls and wage costs
17 based on hourly rate of pay.

18 (2) Fees may be waived or reduced due to hardship
19 circumstances.

20 (3) Estimated costs must be provided in writing to the
21 requestor prior to commencement of services.

22 (g) Acceptance of requests and response time.--

23 (1) Requests for access to or dissemination of
24 identifying and nonidentifying information shall be made to
25 the agency or intermediary involved in the adoption or to the
26 adoption registry, as selected by the requestor.

27 (2) Agencies and intermediaries still in operation shall
28 not deny requests for information for those adoptions
29 arranged under their operations.

30 (3) Responses to requests for nonidentifying information

1 shall be provided to the requestor within a reasonable time.

2 (4) Responses to requests for identifying information
3 shall be provided to the requestor within a reasonable time.

4 If not completed within six months, a report shall be given
5 to the requestor presenting the results to date and the
6 activity and expense estimated to fulfill the request.

7 (5) Responses to requests for identifying or
8 nonidentifying information in instances of documented health
9 emergencies shall be provided to the requestor within 48
10 hours. Documentation of the urgency shall be provided by the
11 requestor and include a signed statement by the physician
12 regarding the nature of the emergency and the possible
13 consequences if information is not made available to the
14 requestor.

15 (6) Responses to a request to disseminate significant
16 genetic information shall be completed within a reasonable
17 time. Documentation of the significance shall be provided by
18 the requestor and include a signed statement by the physician
19 regarding the nature of the concern and the possible
20 consequences if the information is not made available to the
21 intended parties.

22 § 2906. Docket entries.

23 Upon the filing of any decree under this part, the clerk
24 shall enter on the docket an entry showing the date of the
25 decree. Information identifying the [natural] birth parents
26 shall not be entered on the docket.

27 § 2907. Certificate of adoption.

28 The clerk shall issue to the [adopting] adoptive parent or
29 parents a certificate reciting that the court has granted the
30 adoption. The certificate shall not disclose the name of any

1 [natural] birth parent or the original name of the person
2 adopted. The certificate shall be accepted in any legal
3 proceedings in this Commonwealth as evidence of the fact that
4 the adoption has been granted.

5 § 2908. Foreign decree of adoption.

6 When a decree of adoption of a minor is made or entered in
7 conformity with the laws of another state or a foreign country
8 whereby a child is adopted by a resident of this Commonwealth, a
9 copy of the final decree, properly authenticated, [may] shall be
10 filed with the clerk in the county of residence of the
11 [adopting] adoptive parents. The decree and such other documents
12 as may be filed therewith shall be kept in the files of the
13 court as a permanent record thereof and shall be withheld from
14 inspection except on order of court granted upon cause shown.
15 Upon the filing of a foreign decree of adoption, the clerk shall
16 enter upon the docket an entry showing the foreign court,
17 identification of the proceedings therein and the date of the
18 decree. Information identifying the [natural] birth parents
19 shall not be required.

20 § 2909. Medical history information.

21 (a) Delivery of information.--Medical history information,
22 including information about the birth parents which may be
23 relevant to any potential hereditary or congenital medical
24 problem, whether or not that condition is in existence or
25 discoverable at the time of the adoption, shall, where
26 practicable, be delivered by the attending physician or other
27 designated person to the intermediary who shall deliver such
28 information to the [adopting] adoptive parents or their
29 physician. In cases where there is no intermediary, medical
30 history information shall be delivered directly to the

1 [adopting] adoptive parents or their physician.

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

6 (c) Regulations.--The Pennsylvania Department of Health
7 shall implement the provisions of this section by regulation.
8 § 2910. Penalty for unauthorized disclosure.

9 Any officer, agent or employee of the court, other than a
10 judge thereof, the Department of Health [or], the Department of
11 Public Welfare, any agency or any intermediary who willfully
12 discloses impounded or otherwise confidential information
13 relating to an adoption, other than as expressly authorized and
14 provided in this chapter, commits a misdemeanor of the third
15 degree.

16 Section 8. Title 23 is amended by adding sections to read:
17 § 2911. Pennsylvania Adoption Information Retrieval System.

18 (a) Establishment.--The department shall establish the
19 Pennsylvania Adoption Information Retrieval System which shall
20 be a Statewide central repository for nonidentifying statistical
21 information regarding adoption.

22 (b) Data.--The Administrative Office of the Pennsylvania
23 Courts or its successor shall submit to the department the
24 following information on adoptions within 30 days of a court's
25 granting a petition to adopt:

26 (1) The child's birth date, race and place of birth.

27 (2) The birth date and race of the birth and legal
28 parent or parents.

29 (3) The birth date and race of the adoptive parent or
30 parents.

1 (4) Whether the adoptive parent was a stepparent or
2 other relative.

3 (5) Whether parental rights were terminated voluntarily
4 or involuntarily or whether the birth and legal parents
5 consented to the adoption.

6 (6) The identities of the agency and intermediary
7 involved.

8 (7) Any other information which may be required by the
9 department through regulation.

10 (8) Whether the child was eligible for and received
11 adoption assistance.

12 (c) Report.--The department shall file a report on the PAIRS
13 annually with the Governor and the General Assembly.

14 (d) Definition.--As used in this section, the term "PAIRS"
15 means the Pennsylvania Adoption Information Retrieval System
16 established under this section.

17 § 2912. Adoption registry.

18 The Department of Public Welfare shall establish provisions
19 for and arrange implementation of an adoption registry for the
20 purposes ascribed to it in this chapter and any other activities
21 provided by regulation. The registry shall request and shall
22 receive the cooperation of courts, agencies, intermediaries and
23 the Department of Health to assist in fulfilling its
24 responsibilities. Appropriate fees may be assessed pursuant to
25 section 2905(f) (relating to retention of and access to
26 records).

27 § 2913. Transfer of adoption records.

28 (a) Notification of court.--Agencies or intermediaries
29 engaged in the practice of adoption which plan to terminate the
30 practice by closure or by sale to an entity other than another

1 adoption agency or to move records to another county shall, at
2 least 90 days prior to the end of operations, notify the court
3 of common pleas of the county in which the principal offices are
4 located of the proposed termination of operations. The
5 notification shall contain a plan relating to the disposition of
6 the adoption records. The plan shall be a brief explanation of
7 the quantity and format of the records to be transferred, a
8 provision for lending staff and the amount of available funding
9 to a successor entity for the incorporation of the first
10 entity's records into those of the successor entity.

11 (b) Approval by court.--The court shall determine if the
12 plan is acceptable. If the adoption agency or intermediary has
13 no plan or presents an unacceptable plan for record disposition,
14 the court shall determine an appropriate record disposition
15 plan. The court shall review the records and direct another
16 adoption agency or the county office of children and youth to
17 take control of the records. If not previously arranged, the
18 court shall also direct the closing agency or intermediary to
19 provide sufficient funds to the new entity to cover the expenses
20 of delivering the records into appropriate secure storage areas,
21 educating the successor staff and converting the records into an
22 accessible format.

23 (c) Action by successor agency.--The court shall require the
24 relocating or successor entity to notify the Department of
25 Public Welfare of the new location of the records within 30 days
26 of the transfer.

27 § 2914. Registration of intermediaries.

28 (a) Registration.--The Department of Public Welfare shall
29 have the authority to register intermediaries.

30 (b) Prohibition.--No intermediary shall arrange adoptions or

1 perform any functions or actions in connection with an adoption
2 unless it holds an active registration.

3 (c) Application.--An intermediary shall file an application
4 for an adoption registration as provided by the department and
5 remit the appropriate fee.

6 (1) The department shall establish the fee by
7 regulation. This fee shall be based on a sliding scale which
8 factors in the average number of adoptions performed per year
9 by the intermediary.

10 (2) Seven and one-half percent of the fee shall be
11 retained by the department to cover administrative expenses.

12 (3) The remainder of the fee shall be forwarded to the
13 counseling fund established under section 2505(e) (relating
14 to adoption counseling).

15 (4) The department may establish the initial fee
16 schedule by policy which may remain in effect for up to one
17 year.

18 (d) Adoption registration.--An adoption registration shall
19 remain active for a term of three years and may be renewed.

20 (e) Semiannual report.--All intermediaries shall file a
21 semiannual report with the department which contains the number
22 of adoptions completed since the last report, the cost of the
23 adoption service, the length of time each adoption took and any
24 other information the department determines necessary through
25 regulation. This information shall be available through the
26 Pennsylvania Adoption Information Retrieval System established
27 under section 2911 (relating to Pennsylvania Adoption
28 Information Retrieval System).

29 (f) Regulations.--

30 (1) The department shall promulgate any and all

1 regulations necessary to implement this section.

2 (2) The department shall, by regulation and in
3 cooperation with the Pennsylvania Supreme Court, establish
4 continuing education requirements and courses for
5 intermediaries. These courses shall become a requirement for
6 registration and renewal one year from the effective date of
7 this section.

8 (g) Penalty.--Any intermediary who performs any function in
9 connection with an adoption without an active registration
10 commits a misdemeanor of the second degree and, upon conviction,
11 shall be sentenced to pay a fine of \$5,000 for each month during
12 which the person acted without a registration.

13 (h) Definition.--As used in this section, the term
14 "intermediary" shall include any person or persons or agency
15 acting between the parent or parents and the proposed adoptive
16 parent or parents in arranging more than three adoptions per
17 year. The term shall not include a person working for an agency
18 which is already approved.

19 § 2915. Grievance procedure.

20 (a) General rule.--Any aggrieved person may file a complaint
21 with the Department of Public Welfare against a private or
22 public adoption agency or an intermediary.

23 (b) Complaints.--All complaints must be in writing on a form
24 prescribed by the department and must include the name, address
25 and phone number of the agency or intermediary and the
26 circumstances surrounding the adoption.

27 (c) Investigation.--The department shall investigate all
28 legitimate complaints and shall have the authority to withdraw a
29 registration.

30 (d) Information.--The department shall make available,

1 through the Pennsylvania Adoption Information Retrieval System
2 established under section 2911 (relating to Pennsylvania
3 Adoption Information Retrieval System) all pertinent information
4 regarding a complaint filed against an intermediary.

5 Section 9. (a) Article VII(e) of the act of June 13, 1967
6 (P.L.31, No.21), known as the Public Welfare Code, is repealed.

7 (b) All other acts and parts of acts are repealed insofar as
8 they are inconsistent with the addition of 23 Pa.C.S. Ch. 25
9 Subch. F.

10 Section 10. This act shall take effect as follows:

11 (1) Section 9 of this act shall take effect July 1,
12 1995.

13 (2) The remainder of this act shall take effect in 60
14 days.