

No. 208

AN ACT

HB 2302

Providing for the adoption of minors and adults and for the termination of certain parent-child relationships; providing for jurisdiction of courts; providing for recording of foreign decrees of adoption; and containing provisions for procedures, decrees and records in all matters relating thereto.

TABLE OF CONTENTS

ARTICLE I
PRELIMINARY PROVISIONS

- Section 101. Short Title
- Section 102. Definitions
- Section 103. Severability

ARTICLE II
JURISDICTION; PARTIES

A. Jurisdiction

- Section 201. Court
- Section 202. Venue

B. Parties

- Section 211. Who May Be Adopted
- Section 212. Who May Adopt

ARTICLE III
PROCEEDINGS PRIOR TO PETITION TO ADOPT

A. Voluntary Relinquishment

- Section 301. Relinquishment to Agency
- Section 302. Relinquishment to Adult Intending to Adopt Child
- Section 303. Hearing

B. Involuntary Termination

- Section 311. Grounds for Involuntary Termination
- Section 312. Petition for Involuntary Termination
- Section 313. Hearing

C. Decree of Termination

- Section 321. Effect of a Decree of Termination

D. Report of Intention to Adopt;
Report of Intermediary; Investigation

- Section 331. Report of Intention to Adopt
- Section 332. Filing of Report
- Section 333. Report of Intermediary
- Section 334. Exhibits
- Section 335. Investigation

ARTICLE IV
PETITION FOR ADOPTION; CONSENTS

A. Petition

- Section 401. Contents of Petition
- Section 402. Exhibits

B. Consents

- Section 411. Consents Necessary to Adoption
- Section 412. Consents Not Naming Adopting Parents
- Section 413. When Consent Not Required; In General
- Section 414. When Consent Not Required; Parent

C. Hearings

- Section 421. Notice
- Section 422. Place of Hearing
- Section 423. Attendance at Hearing
- Section 424. Testimony; Investigation
- Section 425. Religious Belief

ARTICLE V
DECREE; EFFECT THEREOF; RECORDS

- Section 501. Time of Entry of Decree
- Section 502. Requirements and Form of Decree
- Section 503. Retention of Parental Status
- Section 504. Name of Adoptee
- Section 505. Impounding of Proceedings
- Section 506. Docket Entries
- Section 507. Report to the Department of Public Welfare
- Section 508. Certificate of Adoption
- Section 509. Foreign Decree

ARTICLE VI
REPEALERS; APPLICABILITY; PENDING
PROCEEDINGS; EFFECTIVE DATE

- Section 601. Repeals
- Section 602. Applicability; Pending Proceedings
- Section 603. Effective Date

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

ARTICLE I PRELIMINARY PROVISIONS

Section 101. Short Title.—This act shall be known and may be cited as the “Adoption Act.”

Section 102. Definitions.—As used in this act:

(1) “Adoptee” means an individual proposed to be adopted.

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

(3) “Clerk” means the clerk of the division of the court of common pleas having jurisdiction over voluntary relinquishment, involuntary termination and adoption proceedings.

(4) “Court” means the court of common pleas.

(5) “Intermediary” means any person or persons or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement.

(6) “Parent” includes adoptive parent.

Section 103. Severability.—If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this act are declared to be severable.

ARTICLE II JURISDICTION; PARTIES

A. Jurisdiction

Section 201. Court.—The court of common pleas of each county shall exercise through the appropriate division original jurisdiction over voluntary relinquishment, involuntary termination, and adoption proceedings.

Section 202. Venue.—Proceedings for voluntary relinquishment, involuntary termination and adoption may be brought in the court of the county where the petitioner or the adoptee resides, or in the county in which is located an office of an agency having custody of the child. Proceedings may also be brought with leave of court in the county in which the adoptee formerly resided.

B. Parties

Section 211. Who May Be Adopted.—Any individual may be adopted, regardless of his age or residence.

Section 212. Who May Adopt.—Any individual may become an adopting parent.

ARTICLE III PROCEEDINGS PRIOR TO PETITION TO ADOPT

A. Voluntary Relinquishment

Section 301. Relinquishment to Agency.—When any child under the age of eighteen years has been in the care of an agency for a minimum period of five days, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights and duties with respect to their child. The written consent of a parent or guardian of a petitioner shall be required if he has not reached eighteen years of age. The agency having the care of the child shall join in the petition which shall contain the agency's consent to accept custody of the child until such time as the child is adopted.

Section 302. Relinquishment to Adult Intending to Adopt Child.—When any child under the age of eighteen years has been for a minimum period of thirty days in the exclusive care of an adult or adults who have filed a report of intention to adopt required by section 331, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights to their child. The written consent of a parent or guardian of a petitioner shall be required if he has not reached eighteen years of age. The adult or adults having care of the child shall file a separate consent to accept custody of the child.

Section 303. Hearing.—Upon presentation of a petition prepared pursuant to section 301 or section 302, the court shall fix a time for hearing, which shall not be less than ten days after filing of the petition. After 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 in the case of their relinquishment to an agency.

B. Involuntary Termination

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

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

(2) The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care,

control, or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent; or

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

Section 312. Petition for Involuntary Termination.—A petition to terminate parental rights with respect to a child under the age of eighteen years may be filed by (i) either parent when termination is sought with respect to the other parent, (ii) an agency, or (iii) the individual having custody or standing in loco parentis to the child and who has filed a report of intention to adopt required by section 331. When the petition is filed by a parent who is under the age of eighteen it shall be joined in by at least one of the parents of such petitioning parent, unless the court is satisfied that such joinder would not be in the best interest of the petitioning parent and would serve no useful purpose. A petition filed under this section shall contain an averment that the petitioner will assume custody of the child until such time as the child is adopted.

Section 313. Hearing.—The court shall fix a time for hearing on a petition filed under section 312 of this act which shall be not less than ten days after filing of the petition. At least ten days' notice shall be given to the parent or parents whose rights are to be terminated by registered or certified mail to his or their last known address or by such other means as the court may require. The natural mother shall be a competent witness as to whether the presumptive father is the natural father of the child. After hearing, which may be private, the court shall make a finding relative to the pertinent provisions of section 311 and upon such finding may enter a decree of termination of parental rights.

C. Decree of Termination

Section 321. Effect of a Decree of Termination.—A decree terminating all rights of a parent or a decree terminating all rights and duties of a parent entered by a court of competent jurisdiction shall extinguish the power or the right of such parent to object to or receive notice of adoption proceedings. The decree shall award custody of the child to the agency or the person consenting to accept custody under section 301 or section 302, or the petitioner in the case of a proceeding under section 312. An agency or person receiving custody of a child shall stand in loco parentis to the child and in such capacity shall have the authority, inter alia, to consent to marriage, to enlistment in the armed forces and to major medical, psychiatric and surgical treatment, and to exercise such other authority concerning the child as a natural parent could exercise.

D. Report of Intention to Adopt;
Report of Intermediary; Investigation

Section 331. *Report of Intention to Adopt.*—Every person now having or hereafter receiving or retaining possession, custody or control of any child, for the purpose or with the intention of adopting a child under the age of eighteen years shall report to the court in which the petition for adoption will be filed. The report shall set forth the circumstances surrounding the persons receiving or retaining possession, custody or control of the child; the name, sex, racial background, age, date and place of birth, and religious affiliation of the child; the name and address of the intermediary; the fee or expenses paid or to be paid to the intermediary and the name and address of the person or persons making the report. When a person receives or retains possession, custody or control of a child from an agency the report shall set forth only the name and address of the agency, and the circumstances surrounding such person's receiving or retaining possession, custody or control of the child. No report shall be required when the child is the child, grandchild, stepchild, brother or sister of the whole or half blood, or niece or nephew by blood or marriage of the person receiving or retaining possession, custody or control.

Section 332. *Filing of Report.*—The report required by section 331 shall be filed within thirty days after the date of receipt of the possession, custody or control of the child.

Section 333. *Report of Intermediary.*—The intermediary who or which arranged the adoption placement of any child under the age of eighteen years shall make a written report under oath to the court in which the petition for adoption will be filed, and shall thereupon forthwith notify in writing the adopting parent or parents of the fact that such report has been filed and the date thereof. The report shall set forth:

- (1) The name and address of the intermediary;
- (2) The name, sex, racial background, age, date and place of birth, and religious affiliation of the child;
- (3) The date of the placement of the child with the adopting parent or parents;
- (4) The name, racial background, age, marital status as of the time of birth of the child and during one year prior thereto, and religious affiliation of the parents of the child (or of the mother only in the case of an illegitimate child);
- (5) Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the child was entered;
- (6) The residence of the parents or parent of the child, if there has been no such decree of termination;
- (7) A statement that all consents required by section 411 (3), (4) and (5), are attached as exhibits or the basis upon which such consents are not required;
- (8) The fee or expenses paid or to be paid to or received by the

intermediary or to 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; and

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

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

(1) A birth certificate or certification of registration of birth of the child;

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

(3) A certified copy of any decree of termination made by a court other than the court in which the petition for adoption will be filed.

Section 335. Investigation.—When a report required by section 331 has been filed, the court shall cause an investigation to be made by one of the following: a local public child care agency, with its consent, a voluntary child care agency, or an appropriate person designated by the court. In lieu of such investigation, the court may accept an investigation made by the agency which placed the child, and the report of investigation in such cases may be incorporated into the report of the intermediary required by section 333. The investigation shall cover all pertinent information regarding the suitability of the placement, including the age, sex, health, antecedents and eligibility for adoption of the child, and the age, health, social and economic status of the adopting parents. The court may establish procedure for the payment of investigation costs.

ARTICLE IV PETITION FOR ADOPTION; CONSENTS

A. Petition

Section 401. Contents of Petition.—A petition for adoption shall set forth:

(1) The full name, residence, marital status, age, occupation, religious affiliation and racial background of the adopting parent or parents and their relationship, if any, to the adoptee;

(2) That the reports under sections 331 and 333, have been filed, if required;

(3) The name and address of the intermediary, if any;

(4) The full name of the adoptee and the fact and length of time of the adoptee's residence with the adopting parent or parents;

(5) If there is no intermediary, or if no report of the intermediary has been filed, or if the adoptee is over the age of eighteen years, all vital statistics and other information enumerated and required to be stated of record by section 333, so far as applicable;

- (6) If a change in name of the adoptee is desired, the new name;
- (7) That all consents required by section 411 (1) and (2) are attached as exhibits, or the basis upon which such consents are not required;
- (8) That it is the desire of the petitioner or the petitioners that the relationship of parent and child be established between him, her or them and the adoptee.

Section 402. Exhibits.—The petition shall have attached to it the following exhibits:

- (1) The consent or consents required by section 411 (1) and (2);
- (2) If not already filed with a report of an intermediary, the exhibits enumerated in section 334.

B. Consents

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

- (1) The adoptee, if over twelve years of age;
- (2) The adopting parent's spouse, unless they join in the adoption petition;

(3) The parents or surviving parent of an adoptee who shall not have reached the age of eighteen years. If any such parent or surviving parent shall be a minor, but shall have reached the age of eighteen years, his consent shall be sufficient without the consent of his parent or guardian, and such consent shall have the same force and validity as though he were an adult. In the case of an illegitimate child, the consent of the mother only shall be necessary. The consent of the natural father of a child who was illegitimate at birth shall be required only if the relationship between mother and child was terminated by a decree entered after the marriage of the mother and the natural father. The consent of the husband of the mother shall not be necessary if, after notice to the husband, it is proved to the satisfaction of the court by evidence, including testimony of the natural mother, that the husband of the natural mother is not the natural father of the child. Absent such proof, the consent of a former husband of the natural mother shall be required if he was the husband of the natural mother at any time within one year prior to the birth of the adoptee;

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

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

Section 412. Consents Not Naming Adopting Parents.—A consent to a proposed adoption meeting all the requirements of this act but which does not name or otherwise identify the adopting parent or parents shall be valid if it contains a statement that it is voluntarily executed without

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

Section 413. When Consent Not Required; In General.—The court, in its discretion, may dispense with consents other than that of the adoptee to a petition for adoption when:

- (1) The adoptee is over eighteen years of age and has lived with one or both of the adopting parents for at least three continuous years; or
- (2) The adoptee is twenty-one years of age or older; or
- (3) The adoptee is under eighteen years of age and has no parent living whose consent is required.

Section 414. When Consent Not Required; Parent.—Consent of a parent to adoption shall not be required if a decree of termination with regard to such parent has been entered. When parental rights have not previously been terminated, the court may find that consent of a parent of the adoptee is not required if, after hearing as prescribed in section 313, the court finds that grounds exist for involuntary termination under section 311.

C. Hearings

Section 421. Notice.—The court shall fix a time and place for hearing. Notice thereof shall be given to all persons whose required consent has not been obtained and to such other persons as the court shall direct. Notice to the parent or parents of the adoptee, if required, may be given by the intermediary or someone acting on his behalf. Notice shall be by personal service or by registered or certified mail to the last known address of the person to be notified or in such other manner as the court shall direct.

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

Section 423. Attendance at Hearing.—The adopting parent or parents and the adoptee must appear at and, if required, testify at the hearing under oath unless the court determines their presence is unnecessary; in addition the court may require the appearance and testimony of all persons or agencies whose consent is required by this act or who have acted as an intermediary if such appearance or testimony would be necessary or helpful to it.

Section 424. Testimony; Investigation.—The court shall hear testimony in support of the petition and such additional testimony as it deems necessary to inform it as to the desirability of the proposed adoption. It shall require a disclosure of all costs and fees of any type paid or to be paid to any person or institution in connection with the adoption, including the fees of any intermediary. It also shall make or cause to be made an investigation by a person or public agency or, with its consent, a voluntary agency, specifically designated by the court to verify the statements of the petition and such other facts that will give the court full knowledge of the desirability of the proposed adoption. It may rely in

whole or in part upon a report earlier made under section 335 of this act. The court may establish a procedure for the payment of investigation costs by the petitioners or by such other persons as the court may direct.

Section 425. Religious Belief.—Whenever possible, the adopting parents shall be of the same religious faith as the natural parents of the adoptee. No person shall be denied the benefits of this act because of a religious belief in the use of spiritual means or prayer for healing.

ARTICLE V DECREES; EFFECT THEREOF; RECORDS

Section 501. Time of Entry of Decree.—Unless the court for cause shown determines otherwise, no decree of adoption shall be entered unless the adoptee shall have resided with the petitioner for at least six months prior thereto, or in lieu of such residence, the adoptee is at least eighteen years of age or is related by blood or marriage to the petitioner.

Section 502. Requirements and Form of Decree.—If satisfied that the statements made in the petition are true, and that the welfare of the person proposed to be adopted will be promoted by such adoption, and that all requirements of this act have been met, the court shall enter a decree so finding and directing that the person proposed to be adopted shall have all the rights of a child and heir of the adopting parent or parents, and shall be subject to the duties of a child to him or them. In any case in which the petition is withdrawn or dismissed, the court shall enter an appropriate order in regard to the custody of the child.

Section 503. Retention of Parental Status.—Whenever a parent consents to the adoption of his child by his spouse, the parent-child relationship between him and his child shall remain whether or not he is one of the petitioners in the adoption proceeding.

Section 504. Name of Adoptee.—If requested by the petitioners, the decree may provide that the adoptee shall assume the name of the adopting parent or parents and any given first or middle names that may be chosen.

Section 505. Impounding of Proceedings.—All petitions, exhibits, reports, notes of testimony, decrees, and other papers pertaining to any proceeding under this act, or under the act of April 4, 1925 (P.L.127), entitled "An act relating to Adoption," shall be kept in the files of the court as a permanent record thereof and withheld from inspection except on an order of court granted upon cause shown.

Section 506. Docket Entries.—Upon the filing of any decree under this act the clerk shall enter on the docket an entry showing the date of the decree. Information identifying the natural parents shall not be entered on the docket.

Section 507. Report to the Department of Public Welfare.—When a decree of adoption has been entered, the clerk shall so report to the

Department of Public Welfare, on forms supplied by the department, which the department shall keep in confidential files. Information identifying the natural and adopting parents shall not be required.

Section 508. Certificate of Adoption.—The clerk shall issue to the adopting parent or parents a certificate reciting that the court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in the Commonwealth, as evidence of the fact that the adoption has been granted.

Section 509. Foreign Decree.—When a decree of adoption of a minor is made or entered in conformity with the laws of another state or a foreign country whereby a child is adopted by a resident of this Commonwealth, a copy of the final decree, properly authenticated, may be filed with the clerk in the county of residence of the adopting parents. The decree and such other documents as may be filed therewith shall be kept in the files of the court as a permanent record thereof, and shall be withheld from inspection except on order of court granted upon cause shown. Upon the filing of a foreign decree of adoption, the clerk shall enter upon the docket an entry showing the foreign court, identification of the proceedings therein and the date of the decree. After the decree has been filed, the clerk shall make a report thereof to the Department of Public Welfare on a form supplied by the department, which the department shall keep in confidential files.

Information identifying the natural parents shall not be required.

ARTICLE VI REPEALERS; APPLICABILITY; PENDING PROCEEDINGS; EFFECTIVE DATE

Section 601. Repeals.—(a) The act of April 4, 1925 (P.L.127), entitled “An act relating to Adoption,” is hereby repealed absolutely.

(b) All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 602. Applicability; Pending Proceedings.—(a) This act shall apply to all proceedings begun on or after January 1, 1971.

(b) Adoption proceedings in progress and not completed before the effective date of this act may be amended after January 1, 1971 to conform to this act if the parties in the particular case shall so agree. Otherwise, such proceedings shall be carried to their conclusion under the act of April 4, 1925 (P.L.127), entitled “An act relating to Adoption.”

Section 603. Effective Date.—This act shall take effect January 1, 1971.

APPROVED—The 24th day of July, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly
No. 208.



Joseph P. Kelly II
Secretary of the Commonwealth.