

No. 1982-174

AN ACT

HB 1789

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

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

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

§ 2102. Definitions.

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

* * *

“Medical history information.” Medical records and other information concerning an adoptee or an adoptee’s natural family which is relevant to the adoptee’s present or future health care or medical treatment. The term includes otherwise confidential or privileged information provided that identifying contents have been removed pursuant to section 2909 (relating to medical history information).

* * *

Section 2. Section 2313 of Title 23 is amended to read:

§ 2313. Representation for child.

[The court shall appoint counsel to represent the child in an involuntary termination proceeding and at anytime may appoint counsel or a guardian ad litem for a child who has not reached the age of 18 years.]

(a) General rule.—The court shall appoint counsel to represent the child in an involuntary termination proceeding when the proceeding is being contested by one or both of the parents. The court may appoint counsel or a guardian ad litem to represent any child who has not reached the age of 18 years and is subject to any other proceeding under this part whenever it is in the best interests of the child. No attorney or law firm shall represent both the child and the adopting parent or parents.

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

(1) the court may direct that the payment of the fees or a portion thereof may be paid by a court ordered schedule of payments extending beyond the date of the involuntary termination hearing; and

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

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

§ 2503. Hearing.

* * *

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

* * *

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

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

§ 2504. *Alternative procedure for relinquishment.*

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

(b) *Hearing.*—*Upon presentation of a petition filed pursuant to this section, the court shall fix a time for a hearing which shall not be less than ten days after filing of the petition. Notice of the hearing shall be by personal service or by registered mail or by such other means as the court may require upon the consenter and shall be in the form provided in section 2513(b) (relating to hearing). Notice of the hearing shall be given to the other parent or parents, to the putative father whose parental rights could be terminated pursuant to subsection (c) and to the parents or guardian of a consenting parent who has not reached 18 years of age. After hearing, which shall be private, the court may enter a decree of termination of parental rights in the case of a relinquishment to an adult or a decree of termination of parental rights and duties, including the obligation of support, in the case of a relinquishment to an agency.*

(c) *Putative father.*—*If a putative father will not execute a consent to an adoption as required by section 2711 and has not filed an acknowl-*

edgment of paternity or claim of paternity pursuant to section 8302 (relating to acknowledgment of paternity) or 8303 (relating to claim of paternity), the court may enter a decree terminating the parental rights of the putative father pursuant to subsection (b).

§ 2505. Counseling.

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

(b) Compilation of list.—The court shall compile a list of qualified counselors and counseling services (including adoption agencies) which are available to counsel natural parents who are contemplating relinquishment or termination of parental rights pursuant to this part. Such list shall be made available upon request to any agency, intermediary, hospital or other facility providing maternity care.

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

§ 2513. Hearing.

* * *

*(b) Notice.—At least ten days' notice shall be given to the parent or parents, putative parent, or parent of a minor parent whose rights are to be terminated, by **personal service or by** registered mail to his or their last known address or by such other means as the court may require. A putative parent shall include one who has filed a claim of paternity as provided in section 8303 (relating to claim of paternity) prior to the institution of proceedings. The notice shall state the following:*

*“A petition has been filed asking the court to put an end to all rights you have to your child (insert name of 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). **[If you do not appear at this hearing, the court may decide that you are not interested in retaining your rights to your child and your failure to appear may affect the court’s decision on whether to end your rights to your child.]** You are warned that even if you fail to appear at the scheduled hearing, the hearing will go on without you and your rights to your child may be ended by the court without your being present. 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).....”

* * *

§ 2531. Report of intention to adopt.

* * *

(b) Contents.—The report shall set forth:

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

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

(3) The name and address of the intermediary.

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

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

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

When a person receives or retains custody or physical care 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 receiving or retaining custody or physical care of the child.

* * *

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

§ 2533. Report of intermediary.

* * *

(b) Contents.—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.

(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 2711 (relating to consents necessary to adoption) are attached as exhibits or the basis upon which the consents are not required.

(8) An itemized accounting of moneys and consideration 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.

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

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

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

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

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

§ 2711. Consents necessary to adoption.

* * *

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

(d) Contents of consent.—

(1) 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 child will be placed for adoption.

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

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

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

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

§ 2901. Time of entry of decree of adoption.

Unless the court for cause shown determines otherwise, no decree of adoption shall be entered unless the [adoptee has resided with the petitioner for at least six months prior thereto or, in lieu of such residence, the adoptee is at least 18 years of age or is related by blood or marriage to the petitioner] *natural parent or parents' rights have been terminated, the investigation required by section 2535 (relating to investigation) has been completed, the report of the intermediary has been filed pursuant to section 2533 (relating to report of intermediary) and all other legal requirements have been met. If all legal requirements have been met, the court may enter a decree of adoption at any time.*

Section 9. Title 23 is amended by adding a section to read:

§ 2909. *Medical history information.*

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

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

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

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

APPROVED—The 23rd day of June, A. D. 1982.

DICK THORNBURGH