# HOUSE BILL NO. 25

# INTRODUCED BY CODY

IN THE HOUSE

DECEMBER 27, 1990

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

JANUARY 7, 1991 FIRST READING.

JANUARY 15, 1991 COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.

PRINTING REPORT.

JANUARY 17, 1991 SECOND READING, DO PASS.

JANUARY 18, 1991 ENGROSSING REPORT.

JANUARY 19, 1991 THIRD READING, PASSED. AYES, 91; NOES, 1.

TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 21, 1991

FEBRUARY 6, 1991

FEBRUARY 9, 1991

FEBRUARY 11, 1991

INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.

RETURNED TO HOUSE.

SENT TO ENROLLING.

RECEIVED FROM SENATE.

IN THE HOUSE

FEBRUARY 12, 1991

FEBRUARY 21, 1991

REPORTED CORRECTLY ENROLLED.

52nd Legislature

1

HB 0025/01

2 INTRODUCED BY CODY 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS 5 RELATING TO ADOPTIONS TO REQUIRE A 72-HOUR PERIOD AFTER BIRTH BEFORE A RELINQUISHMENT OF PARENTAL RIGHTS MAY BE 6 7 EXECUTED; AMENDING SECTIONS 40-6-125, 40-6-135, AND в 40-8-109, MCA; AND PROVIDING AN EFFECTIVE DATE." 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 40-6-125, MCA, is amended to read: 11 12 "40-6-125. Children born out of wedlock 13 relinguishment -- consent. (1) If the mother of a child born out of wedlock proposes to relinquish the child for adoption 14 15 and the relinquishment or consent of the birth father cannot be obtained, the child may not be placed for adoption until 16 the parental rights of the father are terminated by the 17 court as provided in this part, by the court pursuant to 18 Title 41, chapter 3, or by a court of competent jurisdiction 19 20 in another state or country.

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21 (2) Pending the termination or other disposition of the 22 rights of the father of the child born out of wedlock, the 23 mother may execute a relinquishment, in accordance with 24 <u>40-6-135(2) through (5)</u>, terminating her rights to the 25 child. If the mother relinguishes the child, the agency of



the state of Montana or-the, a licensed adoption agency, or the person to whom the child is relinquished may file a petition under this part or a petition of dependency or neglect pursuant to Title 41, chapter 3. Pending disposition of the petition, the court may enter an order authorizing temporary care of the child.

7 (3) At the request of the mother, her execution of a 8 relinquishment shall must be delayed until after the court 9 has determined the identity of the father and has awarded 10 custody of the child to the father or terminated his rights 11 under this part."

12 Section 2. Section 40-6-135, MCA, is amended to read:

13 \*40-6-135. Relinguishment of parental rights -- form. 14 execution, and revocation. (1) Any A parent or quardian who 15 proposes to relinquish custody of a child for purposes of 16 placing the child for adoption may do so by executing a 17 relinquishment by which all parental rights to the child are 18 voluntarily relinquished to the department of family 19 services or, a licensed adoption agency, or the prospective 20 adoptive parents. A parent may not execute a relinquishment 21 to the department or a licensed adoption agency unless the 22 department or the agency has agreed to accept custody of the 23 child until the child is adopted.

24 (2) A relinquishment may be executed at any time,
25 except that a birth mother may not execute a relinquishment

INTRODUCED BILL - 2 ~ HB 25

#### 1 before the child is 72 hours old.

2 (2)(3) Except as otherwise provided in this section, a
3 relinquishment shall must be by a separate instrument
4 executed before a notary public.

5 (3)(4) If the person from whom a relinquishment is 6 required is a member of any of the armed services or is in 7 prison, the relinquishment may be executed and acknowledged 8 before any person authorized by law to administer oaths.

9 (4)(5) If the relinquishment is executed in another 10 state or country, the court having jurisdiction over the 11 adoption proceeding in this state shall determine whether 12 the relinquishment was executed in accordance with the laws 13 of that state or country and may not proceed unless it finds 14 that the relinquishment was so executed.

15 (5)(6) Upon the filing of a properly and voluntarily 16 executed relinguishment of a child by a parent or quardian, the court shall immediately issue an order terminating the 17 18 rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the 19 guardian have been terminated and if the department of 20 21 family services or a licensed adoption agency has agreed to accept custody of the child until the child is adopted, the 22 court shall issue an order committing the child to the 23 24 department or to the licensed adoption agency to which the relinquishment was given. 25

(6)(7) Entry of an order terminating the rights of both
 parents pursuant to subsection (5) (6) terminates the
 jurisdiction of the district court over the child in any
 divorce or separate maintenance action.

(7)(8) Upon petition of a person who executed a 5 relinguishment and of the department of family services or 6 the licensed adoption agency to which the child was 7 relinguished, the court with which the relinguishment was 8 filed may grant a hearing to consider whether the 9 relinquishment should be revoked. A relinquishment may not 10 be revoked if the child has been placed for adoption. A 11 verbatim record of testimony related to the petition shall 12 must be made." 13

14 Section 3. Section 40-8-109, MCA, is amended to read: 15 "40-8-109. Placement for adoption by parents. (1) No <u>A</u> 16 parent may <u>not</u> make a placement of a child for adoption with 17 an individual who is not a stepparent or a member of the 18 child's extended family unless the parent files with the 19 district court for the county in which the prospective 20 adoptive parent or the parent making the placement resides:

21 (a) a notice of parental placement; and

(b) a relinquishment of parental rights to the
prospective adoptive parents executed voluntarily and in
accordance with 40-6-135(2) through (4) (5).

25 (2) The notice of parental placement and the

-3-

relinquishment shall must be filed prior to a parent's
 placement of the child with an individual who intends to
 adopt the child. The notice of parental placement shall must
 contain the following information:

5 (a) the name and address of each birth parent, if 6 known, and if unknown, the steps taken to ascertain the 7 whereabouts of the parent or parents;

8 (b) the name and address of each prospective adoptive9 parent;

10 (c) the name and address or expected date and place of 11 birth of the child; and

12 (d) the name and address of counsel, guardian ad litem,
13 or other representative, if any, for each of the parties in
14 (a) through (c) of subsection (2).

15 (3) Upon receipt of a notice of parental placement and 16 a relinquishment, the court shall require that the 17 department examine the child and conduct interviews with the 18 birth parents and prospective adoptive parents and report to 19 the court within 30 days but not earlier than 5 days after 20 the birth of the child. The report must state whether the 21 following requirements for placement have been met:

(a) that the decision to place was voluntarily made bythe birth parents;

(b) that the department has no temporary authority toinvestigate or provide protective services to the family

1 under 41-3-402;

2 (c) that the birth parents or their representatives
3 have provided the court with the report required by
4 40-8-136;

5 (d) that the prospective adoptive parents have been 6 provided a medical and social nistory of the child and birth 7 parents; and

8 (e) that the proposed placement is in the child's best9 interest.

10 (4) The department may contract with licensed social 11 workers and licensed child-placing agencies to conduct the 12 investigations and prepare the report to the court ordered 13 pursuant to subsection (3).

14 (5) The department may charge the prospective adoptive
15 parents a fee, commensurate with costs, for the
16 investigation and report.

17 (6) Within 45 days of filing of the notice of parental
18 placement and the relinquishment, the court shall schedule a
19 hearing to consider the proposed placement.

20 (7) (a) At least 5 days' notice of the time and place
21 of the hearing must be given to the birth parents, the
22 prospective adoptive parents, any named guardian ad litem,
23 and the department.

(b) The hearing shall-be is closed to all persons
except those persons entitled to notice and their

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1 representatives or counsel.

2 (8) If the court finds that all requirements for 3 placement have been met, the court may issue an order or 4 schedule a hearing for the purpose of terminating parental 5 rights and granting temporary custody to the prospective 6 adoptive parents. The prospective adoptive parents must 7 <u>shall</u> file their petition to adopt within 30 days of the 8 order.

9 (9) If the court finds that all requirements for the 10 adoptive placement have not been met, the court may issue 11 any order appropriate to protect the child."

12 NEW SECTION. Section 4. Effective date. [This act] is

13 effective July 1, 1991.

-End-

#### 52nd Legislature

#### HB 0025/01

# APPROVED BY COMMITTEE ON JUDICIARY

1	HOUSE BILL NO. 25			
2	INTRODUCED BY CODY			
3				
4	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS			
5	RELATING TO ADOPTIONS TO REQUIRE A 72-HOUR PERIOD AFTER			
6	BIRTH BEFORE A RELINQUISHMENT OF PARENTAL RIGHTS MAY BE			
7	EXECUTED: AMENDING SECTIONS 40-6-125, 40-6-135, AND			
8	40-8-109, MCA; AND PROVIDING AN EFFECTIVE DATE."			
9				
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:			
11	Section 1. Section 40-6-125, MCA, is amended to read:			
12	"40-6-125. Children born out of wedlock			
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12 13	<b>*40-6-125.</b> Children born out of wedlock relinguishment consent. (1) If the mother of a child born			
12 13 14	<b>*40-6-125. Children born out of wedlock</b> <b>relinguishment consent.</b> (1) If the mother of a child born out of wedlock proposes to relinguish the child for adoption			
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rights of the father of the child born out of wedlock, the mother may execute a relinquishment, in accordance with <u>40-6-135(2) through (5)</u>, terminating her rights to the child. If the mother relinquishes the child, the agency of



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the state of Montana or-the, a licensed adoption agency, or 1 2 the person to whom the child is relinquished may file a petition under this part or a petition of dependency or 3 4 neglect pursuant to Title 41, chapter 3. Pending disposition of the petition, the court may enter an order authorizing 5 6 temporary care of the child. 7 (3) At the request of the mother, her execution of a relinquishment shall must be delayed until after the court 8

9 has determined the identity of the father and has awarded 10 custody of the child to the father or terminated his rights 11 under this part."

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24 (2) A relinquishment may be executed at any time,
 25 except that a birth mother may not execute a relinquishment
 SECOND READING

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#### 1 before the child is 72 hours old.

2 (?)(3) Except as otherwise provided in this section, a
3 relinquishment shall must be by a separate instrument
4 executed before a notary public.

5 (3)(4) If the person from whom a relinquishment is 6 required is a member of any of the armed services or is in 7 prison, the relinquishment may be executed and acknowledged 8 before any person authorized by law to administer oaths.

9 {4}(5) If the relinquishment is executed in another 10 state or country, the court having jurisdiction over the 11 adoption proceeding in this state shall determine whether 12 the relinquishment was executed in accordance with the laws 13 of that state or country and may not proceed unless it finds 14 that the relinquishment was so executed.

15 +5+(6) Upon the filing of a properly and voluntarily 16 executed relinquishment of a child by a parent or guardian, 17 the court shall immediately issue an order terminating the rights of that parent or guardian to that child. If the 18 19 rights of both parents, the surviving parent, or the quardian have been terminated and if the department of 20 21 family services or a licensed adoption agency has agreed to accept custody of the child until the child is adopted, the 22 23 court shall issue an order committing the child to the department or to the licensed adoption agency to which the 24 relinguishment was given. 25

(6)(7) Entry of an order terminating the rights of both
 parents pursuant to subsection (5) (6) terminates the
 jurisdiction of the district court over the child in any
 divorce or separate maintenance action.

(7)(8) Upon petition of a person who executed a s. relinguishment and of the department of family services or б the licensed adoption agency to which the child was 7 relinquished, the court with which the relinquishment was 8 filed may grant a hearing to consider whether the 9 relinguishment should be revoked. A relinguishment may not 10 be revoked if the child has been placed for adoption. A 11 verbatim record of testimony related to the petition shall 12 must be made." 13

14 Section 3. Section 40-8-109, MCA, is amended to read:

15 **"40-8-109.** Placement for adoption by parents. (1) No <u>A</u> 16 parent may <u>not</u> make a placement of a child for adoption with 17 an individual who is not a stepparent or a member of the 18 child's extended family unless the parent files with the 19 district court for the county in which the prospective 20 adoptive parent or the parent making the placement resides:

21 (a) a notice of parental placement; and

22 (b) a relinquishment of parental rights to the 23 prospective adoptive parents executed voluntarily and in 24 accordance with 40-6-135(2) through  $\frac{4}{(5)}$ .

25 (2) The notice of parental placement and the

-3-

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under 41-3-402:

relinquishment shall must be filed prior to a parent's
 placement of the child with an individual who intends to
 adopt the child. The notice of parental placement shall must
 contain the following information:

5 (a) the name and address of each birth parent, if 6 known, and if unknown, the steps taken to ascertain the 7 whereabouts of the parent or parents;

8 (b) the name and address of each prospective adoptive9 parent;

10 (c) the name and address or expected date and place of 11 birth of the child; and

12 (d) the name and address of counsel, guardian ad litem,
13 or other representative, if any, for each of the parties in
14 (a) through (c) of subsection (2).

15 (3) Upon receipt of a notice of parental placement and a relinquishment, the court shall require that the department examine the child and conduct interviews with the birth parents and prospective adoptive parents and report to the court within 30 days but not earlier than 5 days after the birth of the child. The report must state whether the following requirements for placement have been met:

(a) that the decision to place was voluntarily made bythe birth parents;

24 (b) that the department has no temporary authority to25 investigate or provide protective services to the family

2 (c) that the birth parents or their representatives have provided the court with the report required by 3 40-8-136: 4 (d) that the prospective adoptive parents have been 5 provided a medical and social history of the child and birth 6 parents; and 7 (e) that the proposed placement is in the child's best 8 9 interest. (4) The department may contract with licensed social 10 workers and licensed child-placing agencies to conduct the 11 12 investigations and prepare the report to the court ordered 13 pursuant to subsection (3). (5) The department may charge the prospective adoptive 14

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15 parents a fee, commensurate with costs, for the 16 investigation and report.

17 (6) Within 45 days of filing of the notice of parental
18 placement and the relinquishment, the court shall schedule a
19 hearing to consider the proposed placement.

(7) (a) At least 5 days' notice of the time and place
of the hearing must be given to the birth parents, the
prospective adoptive parents, any named guardian ad litem,
and the department.

(b) The hearing shall-be is closed to all persons
except those persons entitled to notice and their

-6-

1 representatives or counsel.

2 (8) If the court finds that all requirements for 3 placement have been met, the court may issue an order or 4 schedule a hearing for the purpose of terminating parental 5 rights and granting temporary custody to the prospective 6 adoptive parents. The prospective adoptive parents must 7 <u>shall</u> file their petition to adopt within 30 days of the 8 order.

9 (9) If the court finds that all requirements for the 10 adoptive placement have not been met, the court may issue 11 any order appropriate to protect the child."

12 NEW SECTION. Section 4. Effective date. [This act] is

13 effective July 1, 1991.

-End-

1

HOUSE BILL NO. 25

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS
RELATING TO ADOPTIONS TO REQUIRE A 72-HOUR PERIOD AFTER
BIRTH BEFORE A RELINQUISHMENT OF PARENTAL RIGHTS MAY BE
EXECUTED; AMENDING SECTIONS 40-6-125, 40-6-135, AND
40-8-109, MCA; AND PROVIDING AN EFFECTIVE DATE."

9

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 40-6-125, MCA, is amended to read: 11 12 "40-6-125. Children born out wedlock of --13 relinguishment -- consent. (1) If the mother of a child born 14 out of wedlock proposes to relinquish the child for adoption 15 and the relinquishment or consent of the birth father cannot 16 be obtained, the child may not be placed for adoption until 17 the parental rights of the father are terminated by the 18 court as provided in this part, by the court pursuant to 19 Title 41, chapter 3, or by a court of competent jurisdiction 20 in another state or country.

(2) Pending the termination or other disposition of the
rights of the father of the child born out of wedlock, the
mother may execute a relinquishment, in accordance with
<u>40-6-135(2) through (5)</u>, terminating her rights to the
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24 (2) A relinquishment may be executed at any time,

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-2-

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#### 1 before the child is 72 hours old.

2 (2)(3) Except as otherwise provided in this section, a
3 relinquishment shall must be by a separate instrument
4 executed before a notary public.

5 (3)(4) If the person from whom a relinquishment is
6 required is a member of any of the armed services or is in
7 prison, the relinquishment may be executed and acknowledged
8 before any person authorized by law to administer oaths.

9 (4)(5) If the relinquishment is executed in another 10 state or country, the court having jurisdiction over the 11 adoption proceeding in this state shall determine whether 12 the relinquishment was executed in accordance with the laws 13 of that state or country and may not proceed unless it finds 14 that the relinquishment was so executed.

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1 (6)(7) Entry of an order terminating the rights of both 2 parents pursuant to subsection (5) (6) terminates the 3 jurisdiction of the district court over the child in any 4 divorce or separate maintenance action.

(7)(8) Upon petition of a person who executed a 5 relinguishment and of the department of family services or 6 the licensed adoption agency to which the child was 7 relinguished, the court with which the relinguishment was R filed may grant a hearing to consider whether thë 9 relinguishment should be revoked. A relinguishment may not 10 be revoked if the child has been placed for adoption. A 11 verbatim record of testimony related to the petition shall 12 13 must be made."

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15 "40-8-109. Placement for adoption by parents. (1) No <u>A</u> 16 parent may <u>not</u> make a placement of a child for adoption with 17 an individual who is not a stepparent or a member of the 18 child's extended family unless the parent files with the 19 district court for the county in which the prospective 20 adoptive parent or the parent making the placement resides:

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prospective adoptive parents executed voluntarily and in
accordance with 40-6-135(2) through (4) (5).

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5 (a) the name and address of each birth parent, if
6 known, and if unknown, the steps taken to ascertain the
7 whereabouts of the parent or parents;

8 (b) the name and address of each prospective adoptive9 parent;

10 {c} the name and address or expected date and place of 11 birth of the child; and

12 (d) the name and address of counsel, guardian ad litem,
13 or other representative, if any, for each of the parties in
14 (a) through (c) of subsection (2).

15 (3) Upon receipt of a notice of parental placement and 16 a relinquishment, the court shall require that the 17 department examine the child and conduct interviews with the 18 birth parents and prospective adoptive parents and report to 19 the court within 30 days but not earlier than 5 days after 20 the birth of the child. The report must state whether the 21 following requirements for placement have been met:

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24 (b) that the department has no temporary authority to25 investigate or provide protective services to the family

1 under 41-3-402;

2 (c) that the birth parents or their representatives
3 have provided the court with the report required by
4 40-8-136;

5 (d) that the prospective adoptive parents have been
6 provided a medical and social history of the child and birth
7 parents; and

8 (e) that the proposed placement is in the child's best9 interest.

10 (4) The department may contract with licensed social
11 workers and licensed child-placing agencies to conduct the
12 investigations and prepare the report to the court ordered
13 pursuant to subsection (3).

14 (5) The department may charge the prospective adoptive
15 parents a fee, commensurate with costs, for the
16 investigation and report.

17 (6) Within 45 days of filing of the notice of parental
18 placement and the relinquishment, the court shall schedule a
19 hearing to consider the proposed placement.

(7) (a) At least 5 days' notice of the time and place
of the hearing must be given to the birth parents, the
prospective adoptive parents, any named guardian ad litem,
and the department.

(b) The hearing shall-be is closed to all persons
except those persons entitled to notice and their

-5-

1 representatives or counsel.

2 (8) If the court finds that all requirements for 3 placement have been met, the court may issue an order or 4 schedule a hearing for the purpose of terminating parental 5 rights and granting temporary custody to the prospective 6 adoptive parents. The prospective adoptive parents must 7 <u>shall</u> file their petition to adopt within 30 days of the 8 order.

9 (9) If the court finds that all requirements for the
adoptive placement have not been met, the court may issue
any order appropriate to protect the child."

12 <u>NEW SECTION.</u> Section 4. Effective date. [This act] is
13 effective July 1, 1991.

-End-

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1	HOUSE BILL NO. 25	1	the state of Mo
2	INTRODUCED BY CODY	2	the person to
3		3	petition under
4	A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS	4	neglect pursuan
5	RELATING TO ADOPTIONS TO REQUIRE A 72-HOUR PERIOD AFTER	5	of the petition
6	BIRTH BEFORE A RELINQUISHMENT OF PARENTAL RIGHTS MAY BE	б	temporary care
7	EXECUTED; AMENDING SECTIONS 40-6-125, 40-6-135, AND	7	(3) At the
8	40-8-109, MCA; AND PROVIDING AN EFFECTIVE DATE."	8	relinquishment
9		9	has determined
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	custody of the
11	Section 1. Section 40-6-125, MCA, is amended to read:	11	under this part
12	*40-6-125. Children born out of wedlock	12	Section 2.
13	relinguishment consent. (1) If the mother of a child born	13	*40-6-135.
14	out of wedlock proposes to relinguish the child for adoption	14	execution, and
15	and the relinguishment or consent of the birth father cannot	15	proposes to rel
16	be obtained, the child may not be placed for adoption until	16	placing the c
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18	court as provided in this part, by the court pursuant to	18	voluntarily re
19	Title 41, chapter 3, or by a court of competent jurisdiction	19	services or, a
20	in another state or country.	20	- adoptive parent
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22	rights of the father of the child born out of wedlock, the	22	department or t
23	mother may execute a relinquishment, in accordance with	23	- child until the
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24 <u>(2) A relinquishment may be executed at any time,</u>

25 except that a birth mother may not execute a relinquishment REFERENCE BILL -2- HB 25

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1 before the child is 72 hours old.

2 (2)(3) Except as otherwise provided in this section, a
3 relinquishment shall must be by a separate instrument
4 executed before a notary public.

5 (3)(4) If the person from whom a relinquishment is 6 required is a member of any of the armed services or is in 7 prison, the relinquishment may be executed and acknowledged 8 before any person authorized by law to administer oaths.

9 (4)(5) If the relinquishment is executed in another 10 state or country, the court having jurisdiction over the 11 adoption proceeding in this state shall determine whether 12 the relinquishment was executed in accordance with the laws 13 of that state or country and may not proceed unless it finds 14 that the relinquishment was so executed.

15 (5)(6) Upon the filing of a properly and voluntarily 16 executed relinguishment of a child by a parent or guardian, 17 the court shall immediately issue an order terminating the 18 rights of that parent or guardian to that child. If the 19 rights of both parents, the surviving parent, or the 20 guardian have been terminated and if the department of 21 family services or a licensed adoption agency has agreed to 22 accept custody of the child until the child is adopted, the 23 court shall issue an order committing the child to the department or to the licensed adoption agency to which the 24 25 relinguishment was given.

(6)(7) Entry of an order terminating the rights of both
 parents pursuant to subsection (5) (6) terminates the
 jurisdiction of the district court over the child in any
 divorce or separate maintenance action.

(7)(8) Upon petition of a person who executed 5 relinguishment and of the department of family services or 6 the licensed adoption agency to which the child 7 relinguished, the court with which the relinguishment was я filed may grant a hearing to consider whether the 9 relinguishment should be revoked. A relinguishment may not 10 be revoked if the child has been placed for adoption. A 11 verbatim record of testimony related to the petition shall 12 must be made." 13

14 Section 3. Section 40-8-109, MCA, is amended to read: 15 "40-8-109. Placement for adoption by parents. (1) No A parent may not make a placement of a child for adoption with 17 an individual who is not a stepparent or a member of the 18 child's extended family unless the parent files with the 19 district court for the county in which the prospective 20 adoptive parent or the parent making the placement resides:

21 (a) a notice of parental placement; and

19月1日—19月1日(1944—19月1日),从1944年19月1日—19月1日(1945年),在1949年1日—1944年1日,1945年1月,1944年1日,19

22 (b) a relinquishment of parental rights to the 23 prospective adoptive parents executed voluntarily and in 24 accordance with 40-6-135(2) through  $\frac{49}{(5)}$ .

25 (2) The notice of parental placement and the

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relinquishment shall must be filed prior to a parent's
 placement of the child with an individual who intends to
 adopt the child. The notice of parental placement shall must
 contain the following information:

5 (a) the name and address of each birth parent, if 6 known, and if unknown, the steps taken to ascertain the 7 whereabouts of the parent or parents;

8 (b) the name and address of each prospective adoptive9 parent;

10 (c) the name and address or expected date and place of 11 birth of the child; and

12 (d) the name and address of counsel, guardian ad litem,
13 or other representative, if any, for each of the parties in
14 (a) through (c) of subsection (2).

15 (3) Upon receipt of a notice of parental placement and 16 a relinquishment, the court shall require that the 17 department examine the child and conduct interviews with the 18 birth parents and prospective adoptive parents and report to 19 the court within 30 days but not earlier than 5 days after 20 the birth of the child. The report must state whether the 21 following requirements for placement have been met:

(a) that the decision to place was voluntarily made bythe birth parents;

(b) that the department has no temporary authority toinvestigate or provide protective services to the family

1 under 41-3-402;

2 (c) that the birth parents or their representatives
3 have provided the court with the report required by
4 40-8-136;

5 (d) that the prospective adoptive parents have been 6 provided a medical and social history of the child and birth 7 parents; and

8 (e) that the proposed placement is in the child's best9 interest.

10 (4) The department may contract with licensed social
11 workers and licensed child-placing agencies to conduct the
12 investigations and prepare the report to the court ordered
13 pursuant to subsection (3).

14 (5) The department may charge the prospective adoptive
15 parents a fee, commensurate with costs, for the
16 investigation and report.

17 (6) Within 45 days of filing of the notice of parental
18 placement and the relinquishment, the court shall schedule a
19 hearing to consider the proposed placement.

20 (7) (a) At least 5 days' notice of the time and place 21 of the hearing must be given to the birth parents, the 22 prospective adoptive parents, any named guardian ad litem, 23 and the department.

(b) The hearing shall-be is closed to all persons
except those persons entitled to notice and their

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## 1 representatives or counsel.

2 (8) If the court finds that all requirements for 3 placement have been met, the court may issue an order or 4 schedule a hearing for the purpose of terminating parental 5 rights and granting temporary custody to the prospective 6 adoptive parents. The prospective adoptive parents must 7 <u>shall</u> file their petition to adopt within 30 days of the 8 order.

9 (9) If the court finds that all requirements for the
adoptive placement have not been met, the court may issue
any order appropriate to protect the child."

<u>NEW SECTION.</u> Section 4. Effective date. [This act] is
 effective July 1, 1991.

-End-