

SENATE BILL NO. 267

INTRODUCED BY MAZUREK

BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

IN THE SENATE

January 24, 1981	Introduced and referred to Committee on Judiciary.
February 16, 1981	Committee recommend bill do pass as amended. Reported adopted.
February 17, 1981	Bill printed and placed on members' desks.
February 18, 1981	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

February 21, 1981	Introduced and referred to Committee on Judiciary.
March 14, 1981	Committee recommend bill be concurred in. Report adopted.
March 19, 1981	Second reading, concurred in.
March 21, 1981	Third reading, concurred in. Ayes, 75; Noes, 17.

IN THE SENATE

March 21, 1981 Returned from House. Concurred
in. Sent to enrolling.

March 25, 1981 Correctly enrolled.
Signed by President.

March 26, 1981 Delivered to Governor.

March 31, 1981 Returned from Governor with
recommended amendments.

April 10, 1981 On motion, consideration
be passed for the day.

April 11, 1981 Second reading, Governor's
amendments concurred in.

On motion rules suspended.
Governor's amendments placed
on calendar for third reading
this day.

Third reading, Governor's
amendments concurred in.
Ayes, 49; Noes, 0. Transmitted
to House.

IN THE HOUSE

April 21, 1981 Second reading, Governor's
amendments concurred in.

On motion rules suspended
and Governor's amendments
placed on third reading this
day.

Third reading, Governor's
amendments concurred in.
Ayes, 81; Noes, 10.

IN THE SENATE

April 22, 1981 Returned from House. Concurred
in. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *267*
 2 INTRODUCED BY *Thurgood*
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
 4 REHABILITATION SERVICES

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO ADOPTION AND TO AMEND THE LAWS RELATING TO
 8 RELINQUISHMENT AND PLACEMENT OF CHILDREN FOR ADOPTION BY
 9 THEIR PARENTS WITHOUT AGENCY INVOLVEMENT; AMENDING SECTIONS
 10 40-6-125, 40-8-101, 40-8-103, 40-8-104, 40-8-111, 40-8-113,
 11 40-8-121, 40-8-122, AND 40-8-123, MCA; AND REPEALING SECTION
 12 40-6-124, MCA."
 13

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

15 NEW SECTION. Section 1. Petition for relinquishment
 16 of custody of child. (1) Any parent who proposes to
 17 relinquish custody of a child for purposes of placing the
 18 child for adoption may do so by petitioning the district
 19 court upon forms supplied by the court.

20 (2) The petition shall contain the following
 21 information:

- 22 (a) the name and age of both birth parents, if known;
- 23 (b) the name, if any, and the age of the child;
- 24 (c) the race and religion of both birth parents, if
- 25 known; and

1 (d) why relinquishment is desired.
 2 (3) Upon receipt of the petition, the court shall set
 3 the time for hearing the matter.

4 (4) The parent-child legal relationship may not be
 5 terminated by relinquishment proceedings unless both birth
 6 parents join in the petition unless the parent-child legal
 7 relationship of a parent not joining the petition has
 8 terminated.

9 NEW SECTION. Section 2. Relinquishment hearing --
 10 requirements. (1) The court may not issue an order of
 11 relinquishment until it is satisfied that the relinquishing
 12 parent has been counseled and fully understands the
 13 consequences of his act.

14 (2) If the court finds after the hearing that it is in
 15 the best interests of the birth parents or child that no
 16 relinquishment be granted, the court shall enter an order
 17 dismissing the action.

18 (3) If the court is not satisfied that the
 19 relinquishing parent has been counseled and fully
 20 understands the consequences of his act, it may continue the
 21 matter. The court may, after considering the best interests
 22 of the child, order the child to be placed in foster care
 23 while the matter is continued.

24 (4) If the court finds at the hearing that the
 25 relinquishing parent has been counseled as provided in

1 subsection (1) of this section and that the relinquishment
2 would best serve the interests of the birth parents and the
3 child, it shall enter an order of relinquishment. The order
4 shall contain language terminating the parent-child legal
5 relationship.

6 NEW SECTION. Section 3. Order of relinquishment --
7 custody. (1) In the order of relinquishment terminating the
8 parent-child legal relationship of both parents or of the
9 only living parent, the court, after taking into account the
10 racial, cultural, and religious background of the child,
11 shall order legal custody transferred to:

12 (a) the department of social and rehabilitation
13 services;

14 (b) a licensed child placement agency;

15 (c) a relative of the child;

16 (d) the person named in the notice filed by the
17 parents pursuant to [section 11]; or

18 (e) any other person eligible to adopt if the court
19 finds it is in the child's best interest.

20 (2) The order of relinquishment shall set forth all
21 pertinent facts brought forth at the hearing and shall also
22 state that the court is satisfied that the provisions of
23 [section 2(1)] have been satisfied.

24 (3) The order of relinquishment divests the
25 relinquishing parent or parents of all legal rights and

1 obligations they may have with respect to the child
2 relinquished. The order shall release the relinquished child
3 from all legal obligations with respect to the relinquishing
4 parent or parents.

5 Section 4. Section 40-6-125, MCA, is amended to read:

6 *40-6-125. Children born out of wedlock -- ~~release~~
7 ~~relinquishment~~ -- consent. (1) If the mother of a child born
8 out of wedlock proposes to ~~release~~ ~~relinquish~~ the child for
9 adoption and the ~~release~~ ~~relinquishment~~ or consent of the
10 ~~mother's~~ ~~birth~~ father cannot be obtained, the child may not
11 be placed for adoption until the parental rights of the
12 father are terminated by the court as provided in this part,
13 by the court pursuant to Title 41, chapter 3, or by a court
14 of competent jurisdiction in another state or country.

15 (2) Pending the termination or other disposition of
16 the rights of the father of the child born out of wedlock,
17 the mother may ~~execute a release terminating her rights to~~
18 ~~the child, if the mother releases the child, the agency of~~
19 ~~the state of Montana, the licensed adoption agency, or the~~
20 ~~person to whom the child is released may file~~ deliver
21 physical custody of her child to the department by filing a
22 petition under this part or a petition of dependency or
23 neglect pursuant to Title 41, chapter 3 [section 1]. Pending
24 ~~disposition of the~~ Upon petition, the court may enter an
25 order authorizing temporary care of the child.

~~(3) At the request of the mother, her formal execution of a release shall be delayed until after the court has determined the identity of the father and has awarded custody of the child to the father or terminated his rights under this part.~~

Section 5. Section 40-8-101, MCA, is amended to read:
 "40-8-101. Short title. This part may be cited as the "Uniform Adoption Act", as amended."

Section 6. Section 40-8-103, MCA, is amended to read:
 "40-8-103. Definitions. As used in this part chapter, unless the context otherwise requires:

(1) "adoptee" means a person of any age who has been legally adopted;

(2) "adoption" means the act of creating the legal relationship between parent and child when it did not exist genetically;

(3) "adoptive parent" means an adult who has become the mother or father of a child through the legal process of adoption;

(4) "adult adoptee" means a person who was adopted as a child and who has attained majority;

(5) "agency" means a public or voluntary agency licensed by any jurisdiction within the United States and expressly empowered to place children as a preliminary to a possible adoption;

(6) "birth parent" means the mother or father of genetic origin of a child, but does not include a putative father of a child;

(7) "child" means any minor person and "agency" means any person, authority, or agency legally empowered to place children for adoption. Singular words may extend and be applied to several persons or things, as well as to one person or thing. Plural words may extend and be applied to one person or thing, as well as to several persons or things, under 18 years of age;

(8) "court" means a Montana district court or a tribal court of any Montana Indian reservation;

(9) "department" means the department of social and rehabilitation services, as established and provided for in Title 2, chapter 15, part 22;

(10) "extended family member" means an adult who is the child's grandparent, aunt or uncle, brother or sister, niece or nephew, or first cousin;

(11) "parent" means the birth or adoptive mother or the birth, adoptive, or legal father whose parental rights have not been terminated;

(12) "placement for adoption" means the transfer of physical custody of a child with respect to whom all parental rights have been terminated and who is otherwise legally free for adoption to a person who intends to adopt

1 the child;

2 (13) "relinquishment" means the informed and voluntary
 3 release in writing of all parental rights with respect to a
 4 child by a parent to an individual or agency pursuant to
 5 [sections 1 through 3]."

6 Section 7. Section 40-8-104, MCA, is amended to read:
 7 "40-8-104. Who may be adopted. ~~(1) Any child present~~
 8 ~~within this state at the time the petition for adoption is~~
 9 ~~filed, irrespective of place of birth or place of residence~~
 10 ~~minor may be adopted. If:~~

11 (a) the minor has no living parent; or

12 (b) the parental rights of the living parents of the
 13 minor have been terminated according to the laws of this
 14 state or of another jurisdiction; or

15 (c) the living parents consent to the adoption.

16 (2) An adult may be adopted as provided in part 2 of
 17 this chapter."

18 Section 8. Section 40-8-111, MCA, is amended to read:
 19 "40-8-111. Consent required for adoption. (1) An
 20 adoption of a child may be decreed when there have been
 21 filed written consents to adoption executed by:

22 (a) both parents, if living, or the surviving parent
 23 of a child, provided that consent is not required from a
 24 father or mother:

25 (i) adjudged guilty by a court of competent

1 jurisdiction of physical-cruelty assault on the child, as
 2 provided in 45-2-202; endangering the welfare of children,
 3 concerning the child, as provided in 45-5-622; or sexual
 4 abuse of children, toward the child, as provided in
 5 45-5-625;

6 (ii) who has been judicially deprived of the custody of
 7 the child on account of cruelty or neglect toward the child,
 8 as defined in 41-3-102(3)(d);

9 (iii) who has, in the state of Montana or in any other
 10 state of the United States, willfully abandoned the child;

11 (iv) who has caused the child to be maintained by any
 12 public or private children's institution, charitable agency,
 13 or any licensed adoption agency or the department of social
 14 and rehabilitation services of the state of Montana for a
 15 period of 1 year without contributing to the support of the
 16 child during said period, if able;

17 (v) If it is proven to the satisfaction of the court
 18 that the father or mother, if able, has not contributed to
 19 the support of the child during a period of 1 year before
 20 the filing of a petition for adoption; or

21 (vi) whose parental rights have been judicially
 22 terminated;

23 (b) the legal guardian of the child if both parents
 24 are dead or if the rights of the parents have been
 25 terminated by judicial proceedings and such guardian has

1 authority by order of the court appointing him to consent to
2 the adoption;

3 (c) the executive head of an agency if the child has
4 been relinquished for adoption to such agency or if the
5 rights of the parents have been judicially terminated or if
6 both parents are dead and custody of the child has been
7 legally vested in such agency with authority to consent to
8 adoption of the child; or

9 (d) any person having legal custody of a child by
10 court order if the parental rights of the parents have been
11 judicially terminated, but in such case the court having
12 jurisdiction of the custody of the child must consent to
13 adoption and a certified copy of its order shall be attached
14 to the petition.

15 (2) The consents required by subsections (1)(a) and
16 (1)(b) shall be acknowledged before an officer authorized to
17 take acknowledgments or witnessed by a representative of the
18 department of social and rehabilitation services or of an
19 agency or witnessed by a representative of the court."

20 Section 9. Section 40-8-113, MCA, is amended to read:

21 "40-8-113. Consent of child. ~~Consent-of-the-child-if~~
22 ~~If a child is~~ 12 years of age or over, ~~shall be required he~~
23 ~~must consent to his adoption. Such consent shall consent~~
24 ~~must~~ be given in court or be in writing in such form as the
25 court shall direct."

1 NEW SECTION. Section 10. Who may place a child for
2 adoption. A child may be placed for adoption only by:

- 3 (1) the department;
4 (2) a licensed child placing agency; or
5 (2) the child's parents.

6 NEW SECTION. Section 11. Placement for adoption by
7 parents. (1) No parent may make a placement of a child for
8 adoption with a person who is not a stepparent or a member
9 of the child's extended family unless the parent files a
10 notice of parental placement with the district court for the
11 county in which the prospective adoptive parent or the
12 parent making the placement resides.

13 (2) The notice of parental placement shall be filed
14 prior to a parent's placement of the child with a person who
15 intends to adopt the child. The notice of parental placement
16 shall contain the following information:

17 (a) the name and address of each birth parent, if
18 known, and if unknown, the steps taken to ascertain the
19 whereabouts of the parent or parents;

20 (b) the name and address of each prospective adoptive
21 parent;

22 (c) the name and address or expected date and place of
23 birth of the child; and

24 (d) the name and address of counsel, guardian ad
25 litem, or other representative, if any, for each of the

1 parties in subsection (2)(a) through (2)(c).

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

9 (a) that the decision to place was voluntarily made by
10 the birth parents;

11 (b) that the department has no temporary authority to
12 investigate or provide protective services to the family
13 under 41-3-402;

14 (c) that the birth parents, the prospective adoptive
15 parents, and their representatives have agreed in writing to
16 provide the court with sworn affidavits containing itemized
17 statements of all fees charged or to be charged, expenses
18 incurred or to be incurred, and payments received or to be
19 received in connection with the proposed adoptive placement;

20 (d) that the prospective adoptive parents have been
21 provided a medical and social history of the child and birth
22 parents; and

23 (e) that the proposed placement is in the child's best
24 interest.

25 (4) Within 45 days of filing of the notice of parental

1 placement, the court shall schedule a hearing to consider
2 the proposed placement.

3 (5) (a) At least 5 days' notice of the time and place
4 of the hearing must be given to the birth parents, the
5 prospective adoptive parents, any named guardian ad litem,
6 and the agency or person who conducted the investigation
7 under subsection (3).

8 (b) The hearing shall be closed to all persons except
9 those persons entitled to notice and their representatives
10 or counsel.

11 (6) If the court finds that all requirements for
12 placement have been met, the court may issue an order or
13 schedule a hearing for the purpose of terminating parental
14 rights and granting temporary custody to the prospective
15 adoptive parents. The prospective adoptive parents must file
16 their petition to adopt within 30 days of the order.

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

20 Section 12. Section 40-8-121, MCA, is amended to read:

21 "40-8-121. Petition for adoption. (1) A petition for
22 adoption shall be filed in duplicate, verified by the
23 petitioners, and shall specify:

24 (a) the full names, ages, and place of residence of
25 the petitioners and, if married, the place and date of the

1 marriage;

2 (b) when the petitioners acquired or intend to acquire
3 custody of the child and from what person or agency;

4 (c) the date and place of birth of child, if known;

5 (d) the name used for the child in the proceeding and,
6 if a change in name is desired, the new name;

7 (e) that it is the desire of the petitioners that the
8 relationship of parent and child be established between them
9 and the child;

10 (f) a full description and statement of value of all
11 property owned or possessed by the child;

12 (g) facts, if any, which excuse consent on the part of
13 a parent to the adoption.

14 (2) One copy of the petition shall be retained by the
15 court. The other shall be sent to the department of social
16 and rehabilitation services. An additional copy shall be
17 sent to any agency participating in the adoption proceeding.

18 (3) Any written consent required by this part may be
19 attached to the petition or may be filed after the filing of
20 the petition, with the consent of the court.

21 (4) Except as provided in [section 11], a petition for
22 adoption must be filed within 1 year of the time the child
23 was placed for adoption with the petitioner."

24 Section 13. Section 40-8-122, MCA, is amended to read:

25 "40-8-122. Investigation. (1) Upon the filing of a

1 petition for adoption, the court shall order an
2 investigation to be made by the department of ~~social and~~
3 ~~rehabilitation services~~ or any other ~~private~~ agency by a
4 licensed ~~and approved for such investigatory purpose by the~~
5 ~~department of social and rehabilitation services, unless~~
6 ~~such child placing agency or other person named by the~~
7 ~~court. The investigation is may be~~ waived by the ~~department~~
8 ~~of social and rehabilitation services, and shall in its~~
9 ~~discretion further order that~~ if the petitioner is a
10 stepparent of the child or if one of the petitioners is a
11 member of the child's extended family, the report of such
12 investigation shall be filed with the court by the
13 designated investigator within ~~the time fixed by the court~~
14 ~~and in no event more than 30 days~~ from the issuance of the
15 order for investigation, unless time therefor is extended by
16 the court. Such the report of the investigation if ordered
17 by the court shall state:

18 (a) include the conditions and antecedents of the
19 child for the purpose of determining whether he is a proper
20 subject the child is legally free for adoption;

21 (b) appropriate inquiry to determine whether the
22 proposed home is a suitable one for the child;

23 (c) that medical and social histories have been
24 provided to the adoptive parent; and

25 (d) any other circumstances and conditions which may

1 have a bearing on the adoption and of which the court should
2 have knowledge.

3 (2) The court may order agencies named in subsection
4 (1) located in one or more counties to make separate
5 investigations on separate parts of the inquiry as may be
6 appropriate.

7 (3) The report of ~~such the~~ investigation shall become
8 a part of the files in the case and shall contain a definite
9 recommendation ~~stating the reasons~~ for or against the
10 proposed adoption ~~and state reasons therefor.~~"

11 Section 14. Section 40-8-123, MCA, is amended to read:

12 "40-8-123. Summary decree. If the child is ~~related by~~
13 ~~blood to a member of the extended family of~~ one of the
14 petitioners or is a stepchild of the petitioner or the court
15 finds that the best interests of the child will be furthered
16 thereby, the court ~~in its discretion,~~ after examination of
17 the a report ~~specified in ordered pursuant to~~ 40-8-122, if
18 ~~such report had been ordered by said court, in its~~
19 ~~discretion,~~ may waive the entry of an interlocutory decree
20 and the waiting period of 6 months provided in 40-8-124 and
21 grant a final decree of adoption if satisfied that the
22 adoption is ~~for in~~ the best interests of the child."

23 Section 15. Repealer. Section 40-6-124, MCA, is
24 repealed.

25 Section 16. Codification instruction. (1) Sections 1

1 through 3 are intended to be codified as an integral part of
2 Title 40, chapter 6, part 1, and the provisions of Title 40,
3 chapter 6, part 1, apply to sections 1 through 3.

4 (2) Sections 10 and 11 are intended to be codified as
5 an integral part of Title 40, chapter 8, part 1, and the
6 provisions of Title 40, chapter 8, part 1, apply to sections
7 10 and 11.

-End-

Approved by Committee
on Judiciary

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 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
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 17 relinquish custody of a child for purposes of placing the
 18 child for adoption may do so by petitioning the district
 19 court upon forms supplied by the court.
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 21 information:
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 25 known; and

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 3 the time for hearing the matter.
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 12 parent has been counseled and fully understands the
 13 consequences of his act.
 14 (2) If the court finds after the hearing that it is in
 15 the best interests of the birth parents or child that no
 16 relinquishment be granted, the court shall enter an order
 17 dismissing the action.
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 19 relinquishing parent has been counseled and fully
 20 understands the consequences of his act, it may continue the
 21 matter. The court may, after considering the best interests
 22 of the child, order the child to be placed in foster care
 23 while the matter is continued.
 24 (4) If the court finds at the hearing that the
 25 relinquishing parent has been counseled as provided in

1 subsection (1) of this section and that the relinquishment
2 would best serve the interests of the birth parents and the
3 child, it shall enter an order of relinquishment. The order
4 shall contain language terminating the parent-child legal
5 relationship.

6 NEW SECTION. Section 3. Order of relinquishment --
7 custody. (1) In the order of relinquishment terminating the
8 parent-child legal relationship of both parents or of the
9 only living parent, the court, after taking into account the
10 racial, cultural, and religious background of the child,
11 shall order legal custody transferred to:

12 (a) the department of social and rehabilitation
13 services;

14 (b) a licensed child placement agency;

15 (c) a relative of the child;

16 (d) the person named in the notice filed by the
17 parents pursuant to [section 11]; or

18 (e) any other person eligible to adopt if the court
19 finds it is in the child's best interest.

20 (2) The order of relinquishment shall set forth all
21 pertinent facts brought forth at the hearing and shall also
22 state that the court is satisfied that the provisions of
23 [section 2(1)] have been satisfied.

24 (3) The order of relinquishment divests the
25 relinquishing parent or parents of all legal rights and

1 obligations they may have with respect to the child
2 relinquished. The order shall release the relinquished child
3 from all legal obligations with respect to the relinquishing
4 parent or parents.

5 Section 4. Section 40-6-125, MCA, is amended to read:
6 "40-6-125. Children born out of wedlock -- ~~release~~
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to ~~release~~ relinquish the child for
9 adoption and the ~~release~~ relinquishment or consent of the
10 ~~natural~~ birth father cannot be obtained, the child may not
11 be placed for adoption until the parental rights of the
12 father are terminated by the court as provided in this part,
13 by the court pursuant to Title 41, chapter 3, or by a court
14 of competent jurisdiction in another state or country.

15 (2) Pending the termination or other disposition of
16 the rights of the father of the child born out of wedlock,
17 the mother may ~~execute a release terminating her rights to~~
18 ~~the child. If the mother releases the child, the agency of~~
19 ~~the state of Montana, the licensed adoption agency, or the~~
20 ~~person to whom the child is released may file~~ deliver
21 physical custody of her child to the department OR A
22 LICENSED CHILD-PLACING AGENCY by filing a petition under
23 ~~this part or a petition of dependency or neglect~~ pursuant to
24 ~~Title 41, chapter 3 [section 1].~~ Pending disposition of -- the
25 Upon petition, the court may enter an order authorizing

1 temporary care of the child.

2 ~~{3}--At the request of the mother, her former execution~~
3 ~~of a release shall be delayed until after the court has~~
4 ~~determined the identity of the father and has awarded~~
5 ~~custody of the child to the father or terminated his rights~~
6 ~~under this part."~~

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9 "Uniform Adoption Act", as amended."

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11 "40-8-103. Definitions. As used in this part chapter,
12 unless the context otherwise requires:

13 ~~{1}--"adoptive" means a person of any age who has been~~
14 ~~legally adopted;~~

15 {1}(1) "adoption" means the act of creating the legal
16 relationship between parent and child when it did not exist
17 genetically;

18 {1}(2) "adoptive parent" means an adult who has become
19 the mother or father of a child through the legal process of
20 adoption;

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23 {1}(3) "agency" means a public or voluntary agency
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13 ~~tribal court of any Montana Indian reservation;~~

14 ~~{9}(7) "department" means the department of social and~~
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16 ~~Title 2, chapter 15, part 22;~~

17 ~~{10}(8) "extended family member" means an adult who is~~
18 ~~the child's grandparent, aunt or uncle, brother or sister,~~
19 ~~niece or nephew, or first cousin;~~

20 ~~{11}(9) "parent" means the birth or adoptive mother or~~
21 ~~the birth, adoptive, or legal father whose parental rights~~
22 ~~have not been terminated;~~

23 ~~{12}(10) "placement for adoption" means the transfer of~~
24 ~~physical custody of a child with respect to whom all~~
25 ~~parental rights have been terminated and who is otherwise~~

1 legally free for adoption to a person who intends to adopt
2 the child;

3 ~~§3(11)~~ "relinquishment" means the informed and
4 voluntary release in writing of all parental rights with
5 respect to a child by a parent to an individual or agency
6 pursuant to [sections 1 through 3]."

7 Section 7. Section 40-8-104, MCA, is amended to read:
8 "40-8-104. Who may be adopted. (1) Any child present
9 ~~within this state at the time the petition for adoption is~~
10 ~~filed, irrespective of place of birth or place of residence,~~
11 minor may be adopted if:

12 (a) the minor has no living parent; or

13 (b) the parental rights of the living parents of the
14 minor have been terminated according to the laws of this
15 state or of another jurisdiction; or

16 (c) the living parents consent to the adoption.

17 (2) An adult may be adopted as provided in part 2 of
18 this chapter."

19 Section 8. Section 40-8-111, MCA, is amended to read:

20 "40-8-111. Consent required for adoption. (1) An
21 adoption of a child may be decreed when there have been
22 filed written consents to adoption executed by:

23 (a) both parents, if living, or the surviving parent
24 of a child, provided that consent is not required from a
25 father or mother:

1 (i) adjudged guilty by a court of competent
2 jurisdiction of ~~physical-cruelty assault on the child, as~~
3 ~~provided in 45-2-202; endangering the welfare of children,~~
4 ~~concerning the child, as provided in 45-5-622; or sexual~~
5 ~~abuse of children, toward the child, as provided in~~
6 ~~45-5-625;~~

7 (ii) who has been judicially deprived of the custody of
8 the child on account of cruelty or neglect toward the child
9 ~~as defined in 41-3-102(3)(d);~~

10 (iii) who has, in the state of Montana or in any other
11 state of the United States, willfully abandoned the child,
12 ~~AS DEFINED IN 41-3-102(3)(D);~~

13 (iv) who has caused the child to be maintained by any
14 public or private children's institution, charitable agency,
15 or any licensed adoption agency or the department of social
16 and rehabilitation services of the state of Montana for a
17 period of 1 year without contributing to the support of the
18 child during said period, if able;

19 (v) if it is proven to the satisfaction of the court
20 that the father or mother, if able, has not contributed to
21 the support of the child during a period of 1 year before
22 the filing of a petition for adoption; or

23 (vi) whose parental rights have been judicially
24 terminated;

25 (b) the legal guardian of the child if both parents

1 are dead or if the rights of the parents have been
 2 terminated by judicial proceedings and such guardian has
 3 authority by order of the court appointing him to consent to
 4 the adoption;

5 (c) the executive head of an agency if the child has
 6 been relinquished for adoption to such agency or if the
 7 rights of the parents have been judicially terminated or if
 8 both parents are dead and custody of the child has been
 9 legally vested in such agency with authority to consent to
 10 adoption of the child; or

11 (d) any person having legal custody of a child by
 12 court order if the parental rights of the parents have been
 13 judicially terminated, but in such case the court having
 14 jurisdiction of the custody of the child must consent to
 15 adoption and a certified copy of its order shall be attached
 16 to the petition.

17 (2) The consents required by subsections (1)(a) and
 18 (1)(b) shall be acknowledged before an officer authorized to
 19 take acknowledgments or witnessed by a representative of the
 20 department of social and rehabilitation services or of an
 21 agency or witnessed by a representative of the court."

22 Section 9. Section 40-8-113, MCA, is amended to read:

23 "40-8-113. Consent of child. ~~Consent-of-the-child-if~~
 24 If a child is 12 years of age or over, shall be required he
 25 must consent to his adoption. Such consent shall consent

1 must be given in court or be in writing in such form as the
 2 court shall direct."

3 NEW SECTION. Section 10. Who may place a child for
 4 adoption. A child may be placed for adoption only by:

- 5 (1) the department;
- 6 (2) a licensed child placing agency; or
- 7 (3) the child's parents.

8 NEW SECTION. Section 11. Placement for adoption by
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 10 adoption with a person who is not a stepparent or a member
 11 of the child's extended family unless the parent files a
 12 notice of parental placement with the district court for the
 13 county in which the prospective adoptive parent or the
 14 parent making the placement resides.

15 (2) The notice of parental placement shall be filed
 16 prior to a parent's placement of the child with a person who
 17 intends to adopt the child. The notice of parental placement
 18 shall contain the following information:

19 (a) the name and address of each birth parent, if
 20 known, and if unknown, the steps taken to ascertain the
 21 whereabouts of the parent or parents;

22 (b) the name and address of each prospective adoptive
 23 parent;

24 (c) the name and address or expected date and place of
 25 birth of the child; and

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

4 (3) Upon receipt of a notice of parental placement,
5 the court shall require that a ~~licensed child placing agency~~
6 THE DEPARTMENT examine the child and conduct interviews with
7 the birth parents and prospective adoptive parents and
8 report to the court within 30 days, but not earlier than 5
9 days after the birth of the child. The report must state
10 whether the following requirements for placement have been
11 met:

12 (a) that the decision to place was voluntarily made by
13 the birth parents;

14 (b) that the department has no temporary authority to
15 investigate or provide protective services to the family
16 under 41-3-402;

17 (c) that the birth parents, the prospective adoptive
18 parents, and their representatives have agreed in writing to
19 provide the court with sworn affidavits containing itemized
20 statements of all fees charged or to be charged, expenses
21 incurred or to be incurred, and payments received or to be
22 received in connection with the proposed adoptive placement;

23 (d) that the prospective adoptive parents have been
24 provided a medical and social history of the child and birth
25 parents; and

1 (e) that the proposed placement is in the child's best
2 interest.

3 (4) Within 45 days of filing of the notice of parental
4 placement, the court shall schedule a hearing to consider
5 the proposed placement.

6 (5) (a) At least 5 days' notice of the time and place
7 of the hearing must be given to the birth parents, the
8 prospective adoptive parents, any named guardian ad litem,
9 and the agency or person who conducted the investigation
10 under subsection (3).

11 (b) The hearing shall be closed to all persons except
12 those persons entitled to notice and their representatives
13 or counsel.

14 (6) If the court finds that all requirements for
15 placement have been met, the court may issue an order or
16 schedule a hearing for the purpose of terminating parental
17 rights and granting temporary custody to the prospective
18 adoptive parents. The prospective adoptive parents must file
19 their petition to adopt within 30 days of the order.

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

23 Section 12. Section 40-8-121, MCA, is amended to read:

24 "40-8-121. Petition for adoption. (1) A petition for
25 adoption shall be filed in duplicate, verified by the

1 petitioners, and shall specify:

2 (a) the full names, ages, and place of residence of
3 the petitioners and, if married, the place and date of the
4 marriage;

5 (b) when the petitioners acquired or intend to acquire
6 custody of the child and from what person or agency;

7 (c) the date and place of birth of child, if known;

8 (d) the name used for the child in the proceeding and,
9 if a change in name is desired, the new name;

10 (e) that it is the desire of the petitioners that the
11 relationship of parent and child be established between them
12 and the child;

13 (f) a full description and statement of value of all
14 property owned or possessed by the child;

15 (g) facts, if any, which excuse consent on the part of
16 a parent to the adoption.

17 (2) One copy of the petition shall be retained by the
18 court. The other shall be sent to the department of social
19 and rehabilitation services. An additional copy shall be
20 sent to any agency participating in the adoption proceeding.

21 (3) Any written consent required by this part may be
22 attached to the petition or may be filed after the filing of
23 the petition, with the consent of the court.

24 (4) Except as provided in [section 11], a petition for
25 adoption must be filed within 1 year of the time the child

1 was placed for adoption with the petitioner."

2 Section 13. Section 40-8-122, MCA, is amended to read:

3 "40-8-122. Investigation. (1) Upon the filing of a
4 petition for adoption, the court shall order an
5 investigation to be made by the department ~~of social and~~
6 ~~rehabilitation services or any other private agency~~ by a
7 ~~licensed and approved for such investigatory purpose by the~~
8 ~~department of social and rehabilitation services, unless~~
9 ~~such~~ child placing agency or other person named by the
10 court. The investigation is may be waived by the department
11 ~~of social and rehabilitation services, and shall in its~~
12 ~~discretion further order that a~~ if the petitioner is a
13 stepparent of the child or if one of the petitioners is a
14 member of the child's extended family. The report of such
15 investigation shall be filed with the court by the
16 designated investigator within the time fixed by the court
17 and in no event more than 30 days from the issuance of the
18 order for investigation, unless time therefor is extended by
19 the court. ~~Such~~ The report of the investigation if ordered
20 by the court shall state:

21 (a) include the conditions and antecedents of the
22 child for the purpose of determining whether he is a proper
23 subject the child is legally free for adoption;

24 (b) appropriate inquiry to determine whether the
25 proposed home is a suitable one for the child;

1 (c) that medical and social histories have been
2 provided to the adoptive parent; and

3 (d) any other circumstances and conditions which may
4 have a bearing on the adoption and of which the court should
5 have knowledge.

6 (2) The court may order agencies named in subsection
7 (1) located in one or more counties to make separate
8 investigations on separate parts of the inquiry as may be
9 appropriate.

10 (3) The report of such the investigation shall become
11 a part of the files in the case and shall contain a definite
12 recommendation stating the reasons for or against the
13 proposed adoption ~~and state reasons therefor.~~"

14 Section 14. Section 40-8-123, MCA, is amended to read:

15 "40-8-123. Summary decree. If the child is ~~related by~~
16 ~~blood to a member of the extended family of~~ one of the
17 petitioners or is a stepchild of the petitioner or the court
18 finds that the best interests of the child will be furthered
19 thereby, the court in its discretion, after examination of
20 ~~the a report specified in~~ ordered pursuant to 40-8-122, ~~if~~
21 ~~such reports had been ordered by said court in its~~
22 discretion, may waive the entry of an interlocutory decree
23 and the waiting period of 6 months provided in 40-8-124 and
24 grant a final decree of adoption if satisfied that the
25 adoption is for in the best interests of the child."

1 Section 15. Repealer. Section 40-6-124, MCA, is
2 repealed.

3 Section 16. Codification instruction. (1) Sections 1
4 through 3 are intended to be codified as an integral part of
5 Title 40, chapter 6, part 1, and the provisions of Title 40,
6 chapter 6, part 1, apply to sections 1 through 3.

7 (2) Sections 10 and 11 are intended to be codified as
8 an integral part of Title 40, chapter 8, part 1, and the
9 provisions of Title 40, chapter 8, part 1, apply to sections
10 10 and 11.

-End-

1 SENATE BILL NO. 267
 2 INTRODUCED BY MAZUREK
 3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
 4 REHABILITATION SERVICES
 5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 7 LAWS RELATING TO ADOPTION AND TO AMEND THE LAWS RELATING TO
 8 RELINQUISHMENT AND PLACEMENT OF CHILDREN FOR ADOPTION BY
 9 THEIR PARENTS WITHOUT AGENCY INVOLVEMENT; AMENDING SECTIONS
 10 40-6-125, 40-8-101, 40-8-103, 40-8-104, 40-8-111, 40-8-113,
 11 40-8-121, 40-8-122, AND 40-8-123, MCA; AND REPEALING SECTION
 12 40-6-124, MCA."
 13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 NEW SECTION. Section 1. Petition for relinquishment
 16 of custody of child. (1) Any parent who proposes to
 17 relinquish custody of a child for purposes of placing the
 18 child for adoption may do so by petitioning the district
 19 court upon forms supplied by the court.
 20 (2) The petition shall contain the following
 21 information:
 22 (a) the name and age of both birth parents, if known;
 23 (b) the name, if any, and the age of the child;
 24 (c) the race and religion of both birth parents, if
 25 known; and

1 (d) why relinquishment is desired.
 2 (3) Upon receipt of the petition, the court shall set
 3 the time for hearing the matter.
 4 (4) The parent-child legal relationship may not be
 5 terminated by relinquishment proceedings unless both birth
 6 parents join in the petition unless the parent-child legal
 7 relationship of a parent not joining the petition has
 8 terminated.
 9 NEW SECIION. Section 2. Relinquishment hearing --
 10 requirements. (1) The court may not issue an order of
 11 relinquishment until it is satisfied that the relinquishing
 12 parent has been counseled and fully understands the
 13 consequences of his act.
 14 (2) If the court finds after the hearing that it is in
 15 the best interests of the birth parents or child that no
 16 relinquishment be granted, the court shall enter an order
 17 dismissing the action.
 18 (3) If the court is not satisfied that the
 19 relinquishing parent has been counseled and fully
 20 understands the consequences of his act, it may continue the
 21 matter. The court may, after considering the best interests
 22 of the child, order the child to be placed in foster care
 23 while the matter is continued.
 24 (4) If the court finds at the hearing that the
 25 relinquishing parent has been counseled as provided in

1 subsection (1) of this section and that the relinquishment
2 would best serve the interests of the birth parents and the
3 child, it shall enter an order of relinquishment. The order
4 shall contain language terminating the parent-child legal
5 relationship.

6 NEW SECTION. Section 3. Order of relinquishment --
7 custody. (1) In the order of relinquishment terminating the
8 parent-child legal relationship of both parents or of the
9 only living parent, the court, after taking into account the
10 racial, cultural, and religious background of the child,
11 shall order legal custody transferred to:

12 (a) the department of social and rehabilitation
13 services;

14 (b) a licensed child placement agency;

15 (c) a relative of the child;

16 (d) the person named in the notice filed by the
17 parents pursuant to [section 11]; or

18 (e) any other person eligible to adopt if the court
19 finds it is in the child's best interest.

20 (2) The order of relinquishment shall set forth all
21 pertinent facts brought forth at the hearing and shall also
22 state that the court is satisfied that the provisions of
23 [section 2(1)] have been satisfied.

24 (3) The order of relinquishment divests the
25 relinquishing parent or parents of all legal rights and

1 obligations they may have with respect to the child
2 relinquished. The order shall release the relinquished child
3 from all legal obligations with respect to the relinquishing
4 parent or parents.

5 Section 4. Section 40-6-125, MCA, is amended to read:
6 "40-6-125. Children born out of wedlock -- ~~release~~
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to ~~release~~ relinquish the child for
9 adoption and the ~~release~~ relinquishment or consent of the
10 ~~natural~~ birth father cannot be obtained, the child may not
11 be placed for adoption until the parental rights of the
12 father are terminated by the court as provided in this part,
13 by the court pursuant to Title 41, chapter 3, or by a court
14 of competent jurisdiction in another state or country.

15 (2) Pending the termination or other disposition of
16 the rights of the father of the child born out of wedlock,
17 the mother may ~~execute a release terminating her rights to~~
18 ~~the child. If the mother releases the child, the agency of~~
19 ~~the state of Montana, the licensed adoption agency, or the~~
20 ~~person to whom the child is released may file~~ deliver
21 physical custody of her child to the department OR A
22 LICENSED CHILD-PLACING AGENCY by filing a petition under
23 ~~this part or a petition of dependency or neglect~~ pursuant to
24 ~~Title 41, chapter 3 [section 1].~~ Pending disposition of ~~the~~
25 upon petition, the court may enter an order authorizing

1 temporary care of the child.

2 ~~{3}--At the request of the mother, her formal execution~~
3 ~~of a release shall be delayed until after the court has~~
4 ~~determined the identity of the father and has awarded~~
5 ~~custody of the child to the father or terminated his rights~~
6 ~~under this part."~~

7 Section 5. Section 40-8-101, MCA, is amended to read:
8 "40-8-101. Short title. This part may be cited as the
9 "Uniform Adoption Act", as amended."

10 Section 6. Section 40-8-103, MCA, is amended to read:
11 "40-8-103. Definitions. As used in this part chapter,
12 unless the context otherwise requires:

13 ~~{1}--"adoptive" means a person of any age who has been~~
14 ~~legally adopted;~~

15 ~~{2}(1) "adoption" means the act of creating the legal~~
16 ~~relationship between parent and child when it did not exist~~
17 ~~genetically;~~

18 ~~{3}(2) "adoptive parent" means an adult who has become~~
19 ~~the mother or father of a child through the legal process of~~
20 ~~adoption;~~

21 ~~{4}--"adult adoptee" means a person who was adopted as~~
22 ~~a child and who has attained majority;~~

23 ~~{5}(3) "agency" means a public or voluntary agency~~
24 ~~licensed by any jurisdiction within the United States and~~
25 ~~expressly empowered to place children as a preliminary to a~~

1 possible adoption;

2 ~~{6}(4) "birth parent" means the mother or father of~~
3 ~~genetic origin of a child, but does not include a putative~~
4 ~~father of a child;~~

5 ~~{7}(5) "child" means any minor person and "agency"~~
6 ~~means any person, authority, or agency legally empowered to~~
7 ~~place children for adoption. Singular words may extend and~~
8 ~~be applied to several persons or things, as well as to one~~
9 ~~person or thing. Plural words may extend and be applied to~~
10 ~~one person or thing, as well as to several persons or~~
11 ~~things, under 18 years of age;~~

12 ~~{8}(6) "court" means a Montana district court or a~~
13 ~~tribal court of any Montana Indian reservation;~~

14 ~~{9}(7) "department" means the department of social and~~
15 ~~rehabilitation services, as established and provided for in~~
16 ~~Title 2, chapter 15, part 22;~~

17 ~~{10}(8) "extended family member" means an adult who is~~
18 ~~the child's grandparent, aunt or uncle, brother or sister,~~
19 ~~niece or nephew, or first cousin.~~

20 ~~{11}(9) "parent" means the birth or adoptive mother or~~
21 ~~the birth, adoptive, or legal father whose parental rights~~
22 ~~have not been terminated;~~

23 ~~{12}(10) "placement for adoption" means the transfer of~~
24 ~~physical custody of a child with respect to whom all~~
25 ~~parental rights have been terminated and who is otherwise~~

1 legally free for adoption to a person who intends to adopt
2 the child;

3 ~~(13)(11)~~ "relinquishment" means the informed and
4 voluntary release in writing of all parental rights with
5 respect to a child by a parent to an individual or agency
6 pursuant to [sections 1 through 3]."

7 Section 7. Section 40-8-104, MCA, is amended to read:
8 "40-8-104. Who may be adopted. (1) Any child ~~present~~
9 ~~within this state at the time the petition for adoption is~~
10 ~~filed, irrespective of place of birth or place of residence,~~
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13 (b) the parental rights of the living parents of the
14 minor have been terminated according to the laws of this
15 state or of another jurisdiction; or
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8 the child on account of cruelty or neglect toward the child,
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11 state of the United States, willfully abandoned the child,
12 AS DEFINED IN 41-3-102(3)(D);

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14 public or private children's institution, charitable agency,
15 or any licensed adoption agency or the department of social
16 and rehabilitation services of the state of Montana for a
17 period of 1 year without contributing to the support of the
18 child during said period, if able;

19 (v) if it is proven to the satisfaction of the court
20 that the father or mother, if able, has not contributed to
21 the support of the child during a period of 1 year before
22 the filing of a petition for adoption; or

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24 terminated;

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2 terminated by judicial proceedings and such guardian has
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4 the adoption;

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13 judicially terminated, but in such case the court having
14 jurisdiction of the custody of the child must consent to
15 adoption and a certified copy of its order shall be attached
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17 (2) The consents required by subsections (1)(a) and
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17 intends to adopt the child. The notice of parental placement
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21 whereabouts of the parent or parents;

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23 parent;

24 (c) the name and address or expected date and place of
25 birth of the child; and

1 (d) the name and address of counsel, guardian ad
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3 parties in subsection (2)(a) through (2)(c).

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5 the court shall require that a ~~licensed-child-placing-agency~~
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7 the birth parents and prospective adoptive parents and
8 report to the court within 30 days, but not earlier than 5
9 days after the birth of the child. The report must state
10 whether the following requirements for placement have been
11 met:

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13 the birth parents;

14 (b) that the department has no temporary authority to
15 investigate or provide protective services to the family
16 under 41-3-402;

17 (c) that the birth parents, the prospective adoptive
18 parents, and their representatives have agreed in writing to
19 provide the court with sworn affidavits containing itemized
20 statements of all fees charged or to be charged, expenses
21 incurred or to be incurred, and payments received or to be
22 received in connection with the proposed adoptive placement;

23 (d) that the prospective adoptive parents have been
24 provided a medical and social history of the child and birth
25 parents; and

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2 interest.

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4 placement, the court shall schedule a hearing to consider
5 the proposed placement.

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7 of the hearing must be given to the birth parents, the
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17 rights and granting temporary custody to the prospective
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3 the petitioners and, if married, the place and date of the
4 marriage;

5 (b) when the petitioners acquired or intend to acquire
6 custody of the child and from what person or agency;

7 (c) the date and place of birth of child, if known;

8 (d) the name used for the child in the proceeding and,
9 if a change in name is desired, the new name;

10 (e) that it is the desire of the petitioners that the
11 relationship of parent and child be established between them
12 and the child;

13 (f) a full description and statement of value of all
14 property owned or possessed by the child;

15 (g) facts, if any, which excuse consent on the part of
16 a parent to the adoption.

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18 court. The other shall be sent to the department of social
19 and rehabilitation services. An additional copy shall be
20 sent to any agency participating in the adoption proceeding.

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22 attached to the petition or may be filed after the filing of
23 the petition, with the consent of the court.

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16 designated investigator within the time fixed by the court
17 and in no event more than 30 days from the issuance of the
18 order for investigation, unless time therefor is extended by
19 the court. Such The report of the investigation if ordered
20 by the court shall state:

21 (a) ~~include the conditions and antecedents of the~~
22 ~~child for the purpose of determining whether he is a proper~~
23 ~~subject the child is legally free for adoption;~~

24 (b) ~~appropriate inquiry to determine whether the~~
25 proposed home is a suitable one for the child;

1 (c) that medical and social histories have been
2 provided to the adoptive parent; and

3 (d) any other circumstances and conditions which may
4 have a bearing on the adoption and of which the court should
5 have knowledge.

6 (2) The court may order agencies named in subsection
7 (1) located in one or more counties to make separate
8 investigations on separate parts of the inquiry as may be
9 appropriate.

10 (3) The report of ~~such~~ the investigation shall become
11 a part of the files in the case and shall contain a definite
12 recommendation stating the reasons for or against the
13 proposed adoption ~~and state reasons therefor.~~"

14 Section 14. Section 40-8-123, MCA, is amended to read:

15 "40-8-123. Summary decree. If the child is related by
16 ~~blood to a member of the extended family of~~ one of the
17 petitioners or is a stepchild of the petitioner or the court
18 finds that the best interests of the child will be furthered
19 thereby, the court in its discretion, after examination of
20 ~~the a report specified in~~ ordered pursuant to 40-8-122, ~~if~~
21 ~~such reports had been ordered by said court in its~~
22 discretion, may waive the entry of an interlocutory decree
23 and the waiting period of 6 months provided in 40-8-124 and
24 grant a final decree of adoption if satisfied that the
25 adoption is for in the best interests of the child."

1 Section 15. Repealer. Section 40-6-124, MCA, is
2 repealed.

3 Section 16. Codification instruction. (1) Sections 1
4 through 3 are intended to be codified as an integral part of
5 Title 40, chapter 6, part 1, and the provisions of Title 40,
6 chapter 6, part 1, apply to sections 1 through 3.

7 (2) Sections 10 and 11 are intended to be codified as
8 an integral part of Title 40, chapter 8, part 1, and the
9 provisions of Title 40, chapter 8, part 1, apply to sections
10 10 and 11.

-End-

1 SENATE BILL NO. 267

2 INTRODUCED BY MAZUREK

3 BY REQUEST OF THE DEPARTMENT OF SOCIAL AND

4 REHABILITATION SERVICES

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
7 LAWS RELATING TO ADOPTION AND TO AMEND THE LAWS RELATING TO
8 RELINQUISHMENT AND PLACEMENT OF CHILDREN FOR ADOPTION BY
9 THEIR PARENTS WITHOUT AGENCY INVOLVEMENT; AMENDING SECTIONS
10 40-6-125, 40-8-101, 40-8-103, 40-8-104, 40-8-111, 40-8-113,
11 40-8-121, 40-8-122, AND 40-8-123, MCA; AND REPEALING SECTION
12 40-6-124, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. Petition for relinquishment
16 of custody of child. (1) Any parent who proposes to
17 relinquish custody of a child for purposes of placing the
18 child for adoption may do so by petitioning the district
19 court upon forms supplied by the court.

20 (2) The petition shall contain the following
21 information:

22 (a) the name and age of both birth parents, if known;

23 (b) the name, if any, and the age of the child;

24 (c) the race and religion of both birth parents, if
25 known; and

1 (d) why relinquishment is desired.

2 (3) Upon receipt of the petition, the court shall set
3 the time for hearing the matter.

4 (4) The parent-child legal relationship may not be
5 terminated by relinquishment proceedings unless both birth
6 parents join in the petition unless the parent-child legal
7 relationship of a parent not joining the petition has
8 terminated.

9 NEW SECTION. Section 2. Relinquishment hearing --
10 requirements. (1) The court may not issue an order of
11 relinquishment until it is satisfied that the relinquishing
12 parent has been counseled and fully understands the
13 consequences of his act.

14 (2) If the court finds after the hearing that it is in
15 the best interests of the birth parents or child that no
16 relinquishment be granted, the court shall enter an order
17 dismissing the action.

18 (3) If the court is not satisfied that the
19 relinquishing parent has been counseled and fully
20 understands the consequences of his act, it may continue the
21 matter. The court may, after considering the best interests
22 of the child, order the child to be placed in foster care
23 while the matter is continued.

24 (4) If the court finds at the hearing that the
25 relinquishing parent has been counseled as provided in

1 subsection (1) of this section and that the relinquishment
2 would best serve the interests of the birth parents and the
3 child, it shall enter an order of relinquishment. The order
4 shall contain language terminating the parent-child legal
5 relationship.

6 NEW SECTION. Section 3. Order of relinquishment --
7 custody. (1) In the order of relinquishment terminating the
8 parent-child legal relationship of both parents or of the
9 only living parent, the court, after taking into account the
10 racial, cultural, and religious background of the child,
11 shall order legal custody transferred to:

12 (a) the department of social and rehabilitation
13 services;

14 (b) a licensed child placement agency;

15 (c) a relative of the child;

16 (d) the person named in the notice filed by the
17 parents pursuant to [section 11]; or

18 (e) any other person eligible to adopt if the court
19 finds it is in the child's best interest.

20 (2) The order of relinquishment shall set forth all
21 pertinent facts brought forth at the hearing and shall also
22 state that the court is satisfied that the provisions of
23 [section 2(1)] have been satisfied.

24 (3) The order of relinquishment divests the
25 relinquishing parent or parents of all legal rights and

1 obligations they may have with respect to the child
2 relinquished. The order shall release the relinquished child
3 from all legal obligations with respect to the relinquishing
4 parent or parents.

5 Section 4. Section 40-6-125, MCA, is amended to read:

6 "40-6-125. Children born out of wedlock -- release
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to release relinquish the child for
9 adoption and the release relinquishment or consent of the
10 ~~natural~~ birth father cannot be obtained, the child may not
11 be placed for adoption until the parental rights of the
12 father are terminated by the court as provided in this part,
13 by the court pursuant to Title 41, chapter 3, or by a court
14 of competent jurisdiction in another state or country.

15 (2) Pending the termination or other disposition of
16 the rights of the father of the child born out of wedlock,
17 the mother may ~~execute a release terminating her rights to~~
18 ~~the child, if the mother releases the child, the agency of~~
19 ~~the state of Montana, the licensed adoption agency, or the~~
20 ~~person to whom the child is released, may file~~ deliver
21 physical custody of her child to the department OR A
22 LICENSED CHILD PLACING AGENCY by filing a petition under
23 ~~this part or a petition of dependency or neglect~~ pursuant to
24 ~~Title 41, chapter 3 [section 1].~~ Pending disposition of ~~the~~
25 Upon petition, the court may enter an order authorizing

1 temporary care of the child.

2 ~~{3}--At the request of the mother, her formal execution~~
 3 ~~of a release shall be delayed until after the court has~~
 4 ~~determined the identity of the father and has awarded~~
 5 ~~custody of the child to the father or terminated his rights~~
 6 ~~under this part.~~"

7 Section 5. Section 40-8-101, MCA, is amended to read:
 8 "40-8-101. Short title. This part may be cited as the
 9 "Uniform Adoption Act", as amended."

10 Section 6. Section 40-8-103, MCA, is amended to read:
 11 "40-8-103. Definitions. As used in this part chapter,
 12 unless the context otherwise requires:

13 ~~{1}--"adoptive" means a person of any age who has been~~
 14 ~~legally adopted;~~

15 ~~{2}(1) "adoption" means the act of creating the legal~~
 16 ~~relationship between parent and child when it did not exist~~
 17 ~~genetically;~~

18 ~~{3}(2) "adoptive parent" means an adult who has become~~
 19 ~~the mother or father of a child through the legal process of~~
 20 ~~adoption;~~

21 ~~{4}--"adult adoptee" means a person who was adopted as~~
 22 ~~a child and who has attained majority;~~

23 ~~{5}(3) "agency" means a public or voluntary agency~~
 24 ~~licensed by any jurisdiction within the United States and~~
 25 ~~expressly empowered to place children as a preliminary to a~~

1 possible adoption;

2 ~~{6}(4) "birth parent" means the mother or father of~~
 3 ~~genetic origin of a child, but does not include a putative~~
 4 ~~father of a child;~~

5 ~~{7}(5) "child" means any minor person and "agency"~~
 6 ~~means any person, authority, or agency legally empowered to~~
 7 ~~place children for adoption; singular words may extend and~~
 8 ~~be applied to several persons or things, as well as to one~~
 9 ~~person or thing; plural words may extend and be applied to~~
 10 ~~one person or thing, as well as to several persons or~~
 11 ~~things under 18 years of age;~~

12 ~~{8}(6) "court" means a Montana district court or a~~
 13 ~~tribal court of any Montana Indian reservation;~~

14 ~~{9}(7) "department" means the department of social and~~
 15 ~~rehabilitation services, as established and provided for in~~
 16 ~~Title 2, chapter 15, part 22;~~

17 ~~{10}(8) "extended family member" means an adult who is~~
 18 ~~the child's grandparent, aunt or uncle, brother or sister,~~
 19 ~~niece or nephew, or first cousin;~~

20 ~~{11}(9) "parent" means the birth or adoptive mother or~~
 21 ~~the birth, adoptive, or legal father whose parental rights~~
 22 ~~have not been terminated;~~

23 ~~{12}(10) "placement for adoption" means the transfer of~~
 24 ~~physical custody of a child with respect to whom all~~
 25 ~~parental rights have been terminated and who is otherwise~~

1 legally free for adoption to a person who intends to adopt
2 the child;

3 ~~(13)(11)~~ "relinquishment" means the informed and
4 voluntary release in writing of all parental rights with
5 respect to a child by a parent to an individual or agency
6 pursuant to [sections 1 through 3]."

7 Section 7. Section 40-8-104, MCA, is amended to read:
8 "40-8-104. Who may be adopted. (1) Any child-present
9 ~~within this state at the time the petition for adoption is~~
10 ~~filed, irrespective of place of birth or place of residence,~~
11 minor may be adopted, if:

12 (a) the minor has no living parent; or
13 (b) the parental rights of the living parents of the
14 minor have been terminated according to the laws of this
15 state or of another jurisdiction; or
16 (c) the living parents consent to the adoption.

17 (2) An adult may be adopted as provided in part 2 of
18 this chapter."

19 Section 8. Section 40-8-111, MCA, is amended to read:
20 "40-8-111. Consent required for adoption. (1) An
21 adoption of a child may be decreed when there have been
22 filed written consents to adoption executed by:

23 (a) both parents, if living, or the surviving parent
24 of a child, provided that consent is not required from a
25 father or mother:

1 (i) adjudged guilty by a court of competent
2 jurisdiction of ~~physical~~ cruelty assault on the child, as
3 provided in 45-2-202; endangering the welfare of children,
4 concerning the child, as provided in 45-5-622; or sexual
5 abuse of children, toward the child, as provided in
6 45-5-625;

7 (ii) who has been judicially deprived of the custody of
8 the child on account of cruelty or neglect toward the child,
9 ~~as defined in 41-3-102(3)(d);~~

10 (iii) who has, in the state of Montana or in any other
11 state of the United States, willfully abandoned the child,
12 AS DEFINED IN 41-3-102(3)(D);

13 (iv) who has caused the child to be maintained by any
14 public or private children's institution, charitable agency,
15 or any licensed adoption agency or the department of social
16 and rehabilitation services of the state of Montana for a
17 period of 1 year without contributing to the support of the
18 child during said period, if able;

19 (v) if it is proven to the satisfaction of the court
20 that the father or mother, if able, has not contributed to
21 the support of the child during a period of 1 year before
22 the filing of a petition for adoption; or

23 (vi) whose parental rights have been judicially
24 terminated;

25 (b) the legal guardian of the child if both parents

1 are dead or if the rights of the parents have been
2 terminated by judicial proceedings and such guardian has
3 authority by order of the court appointing him to consent to
4 the adoption;

5 (c) the executive head of an agency if the child has
6 been relinquished for adoption to such agency or if the
7 rights of the parents have been judicially terminated or if
8 both parents are dead and custody of the child has been
9 legally vested in such agency with authority to consent to
10 adoption of the child; or

11 (d) any person having legal custody of a child by
12 court order if the parental rights of the parents have been
13 judicially terminated, but in such case the court having
14 jurisdiction of the custody of the child must consent to
15 adoption and a certified copy of its order shall be attached
16 to the petition.

17 (2) The consents required by subsections (1)(a) and
18 (1)(b) shall be acknowledged before an officer authorized to
19 take acknowledgments or witnessed by a representative of the
20 department of social and rehabilitation services or of an
21 agency or witnessed by a representative of the court."

22 Section 9. Section 40-8-113, MCA, is amended to read:
23 "40-8-113. Consent of child. ~~Consent-of-the-child-if~~
24 If a child is 12 years of age or over, ~~shall be required he~~
25 must consent to his adoption. ~~Such consent shall consent~~

1 must be given in court or be in writing in such form as the
2 court shall direct."

3 NEW SECTION. Section 10. Who may place a child for
4 adoption. A child may be placed for adoption only by:

- 5 (1) the department;
- 6 (2) a licensed child placing agency; or
- 7 (3) the child's parents.

8 NEW SECTION. Section 11. Placement for adoption by
9 parents. (1) No parent may make a placement of a child for
10 adoption with a person who is not a stepparent or a member
11 of the child's extended family unless the parent files a
12 notice of parental placement with the district court for the
13 county in which the prospective adoptive parent or the
14 parent making the placement resides.

15 (2) The notice of parental placement shall be filed
16 prior to a parent's placement of the child with a person who
17 intends to adopt the child. The notice of parental placement
18 shall contain the following information:

19 (a) the name and address of each birth parent, if
20 known, and if unknown, the steps taken to ascertain the
21 whereabouts of the parent or parents;

22 (b) the name and address of each prospective adoptive
23 parent;

24 (c) the name and address or expected date and place of
25 birth of the child; and

1 (d) the name and address of counsel, guardian ad
2 item, or other representative, if any, for each of the
3 parties in subsection (2)(a) through (2)(c).

4 (3) Upon receipt of a notice of parental placement,
5 the court shall require that a licensed child-placing agency
6 THE DEPARTMENT examine the child and conduct interviews with
7 the birth parents and prospective adoptive parents and
8 report to the court within 30 days, but not earlier than 5
9 days after the birth of the child. The report must state
10 whether the following requirements for placement have been
11 met:

12 (a) that the decision to place was voluntarily made by
13 the birth parents;

14 (b) that the department has no temporary authority to
15 investigate or provide protective services to the family
16 under 41-3-402;

17 (c) that the birth parents, the prospective adoptive
18 parents, and their representatives have agreed in writing to
19 provide the court with sworn affidavits containing itemized
20 statements of all fees charged or to be charged, expenses
21 incurred or to be incurred, and payments received or to be
22 received in connection with the proposed adoptive placement;

23 (d) that the prospective adoptive parents have been
24 provided a medical and social history of the child and birth
25 parents; and

1 (e) that the proposed placement is in the child's best
2 interest.

3 (4) Within 45 days of filing of the notice of parental
4 placement, the court shall schedule a hearing to consider
5 the proposed placement.

6 (5) (a) At least 5 days' notice of the time and place
7 of the hearing must be given to the birth parents, the
8 prospective adoptive parents, any named guardian ad item,
9 and the agency or person who conducted the investigation
10 under subsection (3).

11 (b) The hearing shall be closed to all persons except
12 those persons entitled to notice and their representatives
13 or counsel.

14 (6) If the court finds that all requirements for
15 placement have been met, the court may issue an order or
16 schedule a hearing for the purpose of terminating parental
17 rights and granting temporary custody to the prospective
18 adoptive parents. The prospective adoptive parents must file
19 their petition to adopt within 30 days of the order.

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

23 Section 12. Section 40-8-121, MCA, is amended to read:
24 "40-8-121. Petition for adoption. (1) A petition for
25 adoption shall be filed in duplicate, verified by the

1 petitioners, and shall specify:

2 (a) the full names, ages, and place of residence of
3 the petitioners and, if married, the place and date of the
4 marriage;

5 (b) when the petitioners acquired or intend to acquire
6 custody of the child and from what person or agency;

7 (c) the date and place of birth of child, if known;

8 (d) the name used for the child in the proceeding and,
9 if a change in name is desired, the new name;

10 (e) that it is the desire of the petitioners that the
11 relationship of parent and child be established between them
12 and the child;

13 (f) a full description and statement of value of all
14 property owned or possessed by the child;

15 (g) facts, if any, which excuse consent on the part of
16 a parent to the adoption.

17 (2) One copy of the petition shall be retained by the
18 court. The other shall be sent to the department of social
19 and rehabilitation services. An additional copy shall be
20 sent to any agency participating in the adoption proceeding.

21 (3) Any written consent required by this part may be
22 attached to the petition or may be filed after the filing of
23 the petition, with the consent of the court.

24 (4) Except as provided in [section 11], a petition for
25 adoption must be filed within 1 year of the time the child

1 was placed for adoption with the petitioner."

2 Section 13. Section 40-8-122, MCA, is amended to read:

3 "40-8-122. Investigation. (1) Upon the filing of a
4 petition for adoption, the court shall order an
5 investigation to be made by the department of ~~social and~~
6 ~~rehabilitation services or any other private agency~~ by a
7 ~~licensed and approved for such investigatory purpose by the~~
8 ~~department of social and rehabilitation services, unless~~
9 ~~such child placing agency or other person named by the~~
10 ~~court. The investigation is may be waived by the department~~
11 ~~of social and rehabilitation services, and shall in its~~
12 ~~discretion further order that a~~ if the petitioner is a
13 stepparent of the child or if one of the petitioners is a
14 member of the child's extended family. The report of such
15 investigation shall be filed with the court by the
16 designated investigator within ~~the time fixed by the court~~
17 ~~and in no event more than 30 days from the issuance of the~~
18 order for investigation, unless time therefor is extended by
19 the court. ~~Such~~ The report of the investigation if ordered
20 by the court shall state:

21 (a) include the conditions and antecedents of the
22 child for the purpose of determining whether he is a proper
23 subject the child is legally free for adoption;

24 (b) appropriate inquiry to determine whether the
25 proposed home is a suitable one for the child;

1 (c) that medical and social histories have been
2 provided to the adoptive parent; and

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4 have a bearing on the adoption and of which the court should
5 have knowledge.

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8 investigations on separate parts of the inquiry as may be
9 appropriate.

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11 a part of the files in the case and shall contain a definite
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13 proposed adoption ~~and state reasons therefor.~~"

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18 finds that the best interests of the child will be furthered
19 thereby, the court in its discretion, after examination of
20 the a report specified in ordered pursuant to 40-8-122, ~~if~~
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23 and the waiting period of 6 months provided in 40-8-124 and
24 grant a final decree of adoption if satisfied that the
25 adoption is for in the best interests of the child."

1 Section 15. Repealer. Section 40-6-124, MCA, is
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7 LAWS RELATING TO ADOPTION AND TO AMEND THE LAWS RELATING TO
8 RELINQUISHMENT AND PLACEMENT OF CHILDREN FOR ADOPTION BY
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12 40-6-124, MCA."

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

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16 of custody of child. (1) Any parent who proposes to
17 relinquish custody of a child for purposes of placing the
18 child for adoption may do so by petitioning the district
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20 (2) The petition shall contain the following
21 information:

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25 known; and

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3 the time for hearing the matter.

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19 relinquishing parent has been counseled and fully
20 understands the consequences of his act, it may continue the
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22 of the child, order the child to be placed in foster care
23 while the matter is continued.

24 (4) If the court finds at the hearing that the
25 relinquishing parent has been counseled as provided in

1 subsection (1) of this section and that the relinquishment
2 would best serve the interests of the birth parents and the
3 child, it shall enter an order of relinquishment. The order
4 shall contain language terminating the parent-child legal
5 relationship.

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10 racial, cultural, and religious background of the child,
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13 services;

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17 parents pursuant to [section 11]; or

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19 finds it is in the child's best interest.

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21 pertinent facts brought forth at the hearing and shall also
22 state that the court is satisfied that the provisions of
23 [section 2(1)] have been satisfied.

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 7 place children for adoption. Singular words may extend and
 8 be applied to several persons or things, as well as to one
 9 person or thing. Plural words may extend and be applied to
 10 one person or thing, as well as to several persons or
 11 things, under 18 years of age;

12 {8}(6) "court" means a Montana district court or a
 13 tribal court of any Montana Indian reservation;

14 {9}(7) "department" means the department of social and
 15 rehabilitation services, as established and provided for in
 16 Title 2, chapter 15, part 22;

17 {10}(8) "extended family member" means an adult who is
 18 the child's grandparent, aunt or uncle, brother or sister,
 19 niece or nephew, or first cousin.

20 {11}(9) "parent" means the birth or adoptive mother or
 21 the birth, adoptive, or legal father whose parental rights
 22 have not been terminated;

23 {12}(10) "placement for adoption" means the transfer of
 24 physical custody of a child with respect to whom all
 25 parental rights have been terminated and who is otherwise

1 legally free for adoption to a person who intends to adopt
2 the child;

3 ~~(1)~~(11) "relinquishment" means the informed and
4 voluntary release in writing of all parental rights with
5 respect to a child by a parent to an individual or agency
6 pursuant to [sections 1 through 3]."

7 Section 7. Section 40-8-104, MCA, is amended to read:

8 "40-8-104. Who may be adopted. (1) Any child present
9 within this state at the time the petition for adoption is
10 filed, irrespective of place of birth or place of residence,
11 minor may be adopted, if:

12 (a) the minor has no living parent; or

13 (b) the parental rights of the living parents of the
14 minor have been terminated according to the laws of this
15 state or of another jurisdiction; or

16 (c) the living parents consent to the adoption.

17 (2) An adult may be adopted as provided in part 2 of
18 this chapter."

19 Section 8. Section 40-8-111, MCA, is amended to read:

20 "40-8-111. Consent required for adoption. (1) An
21 adoption of a child may be decreed when there have been
22 filed written consents to adoption executed by:

23 (a) both parents, if living, or the surviving parent
24 of a child, provided that consent is not required from a
25 father or mother:

1 (i) adjudged guilty by a court of competent
2 jurisdiction of physical-cruelty assault on the child, as
3 provided in 45-2-202 45-5-201; endangering the welfare of
4 children, concerning the child, as provided in 45-5-622; or
5 sexual abuse of children, toward the child, as provided in
6 45-5-625;

7 (ii) who has been judicially deprived of the custody of
8 the child on account of cruelty or neglect toward the child,
9 ~~as defined in 41-3-102(3)(d);~~

10 (iii) who has, in the state of Montana or in any other
11 state of the United States, willfully abandoned the child,
12 AS DEFINED IN 41-3-102(3)(D);

13 (iv) who has caused the child to be maintained by any
14 public or private children's institution, charitable agency,
15 or any licensed adoption agency or the department of social
16 and rehabilitation services of the state of Montana for a
17 period of 1 year without contributing to the support of the
18 child during said period, if able;

19 (v) if it is proven to the satisfaction of the court
20 that the father or mother, if able, has not contributed to
21 the support of the child during a period of 1 year before
22 the filing of a petition for adoption; or

23 (vi) whose parental rights have been judicially
24 terminated;

25 (b) the legal guardian of the child if both parents

1 are dead or if the rights of the parents have been
 2 terminated by judicial proceedings and such guardian has
 3 authority by order of the court appointing him to consent to
 4 the adoption;

5 (c) the executive head of an agency if the child has
 6 been relinquished for adoption to such agency or if the
 7 rights of the parents have been judicially terminated or if
 8 both parents are dead and custody of the child has been
 9 legally vested in such agency with authority to consent to
 10 adoption of the child; or

11 (d) any person having legal custody of a child by
 12 court order if the parental rights of the parents have been
 13 judicially terminated, but in such case the court having
 14 jurisdiction of the custody of the child must consent to
 15 adoption and a certified copy of its order shall be attached
 16 to the petition.

17 (2) The consents required by subsections (1)(a) and
 18 (1)(b) shall be acknowledged before an officer authorized to
 19 take acknowledgments or witnessed by a representative of the
 20 department of social and rehabilitation services or of an
 21 agency or witnessed by a representative of the court."

22 Section 9. Section 40-8-113, MCA, is amended to read:

23 "40-8-113. Consent of child. ~~Consent-of-the-child-if~~
 24 if a child is 12 years of age or over, ~~shall-be-required~~ he
 25 must consent to his adoption. ~~Such-consent-shall~~ Consent

1 must be given in court or be in writing in such form as the
 2 court shall direct."

3 NEW SECTION. Section 10. Who may place a child for
 4 adoption. A child may be placed for adoption only by:

- 5 (1) the department;
 6 (2) a licensed child placing agency; or
 7 (3) the child's parents.

8 NEW SECTION. Section 11. Placement for adoption by
 9 parents. (1) No parent may make a placement of a child for
 10 adoption with a person who is not a stepparent or a member
 11 of the child's extended family unless the parent files a
 12 notice of parental placement with the district court for the
 13 county in which the prospective adoptive parent or the
 14 parent making the placement resides.

15 (2) The notice of parental placement shall be filed
 16 prior to a parent's placement of the child with a person who
 17 intends to adopt the child. The notice of parental placement
 18 shall contain the following information:

19 (a) the name and address of each birth parent, if
 20 known, and if unknown, the steps taken to ascertain the
 21 whereabouts of the parent or parents;

22 (b) the name and address of each prospective adoptive
 23 parent;

24 (c) the name and address or expected date and place of
 25 birth of the child; and

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

4 (3) Upon receipt of a notice of parental placement,
5 the court shall require that ~~a-licensed-child-placing-agency~~
6 THE DEPARTMENT examine the child and conduct interviews with
7 the birth parents and prospective adoptive parents and
8 report to the court within 30 days, but not earlier than 5
9 days after the birth of the child. The report must state
10 whether the following requirements for placement have been
11 met:

12 (a) that the decision to place was voluntarily made by
13 the birth parents;

14 (b) that the department has no temporary authority to
15 investigate or provide protective services to the family
16 under 41-3-402;

17 (c) that the birth parents, the prospective adoptive
18 parents, and their representatives have agreed in writing to
19 provide the court with sworn affidavits containing itemized
20 statements of all fees charged or to be charged, expenses
21 incurred or to be incurred, and payments received or to be
22 received in connection with the proposed adoptive placement;

23 (d) that the prospective adoptive parents have been
24 provided a medical and social history of the child and birth
25 parents; and

1 (e) that the proposed placement is in the child's best
2 interest.

3 (4) Within 45 days of filing of the notice of parental
4 placement, the court shall schedule a hearing to consider
5 the proposed placement.

6 (5) (a) At least 5 days' notice of the time and place
7 of the hearing must be given to the birth parents, the
8 prospective adoptive parents, any named guardian ad litem,
9 and the agency or person who conducted the investigation
10 under subsection (3).

11 (b) The hearing shall be closed to all persons except
12 those persons entitled to notice and their representatives
13 or counsel.

14 (6) If the court finds that all requirements for
15 placement have been met, the court may issue an order or
16 schedule a hearing for the purpose of terminating parental
17 rights and granting temporary custody to the prospective
18 adoptive parents. The prospective adoptive parents must file
19 their petition to adopt within 30 days of the order.

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

23 Section 12. Section 40-8-121, MCA, is amended to read:
24 "40-8-121. Petition for adoption. (1) A petition for
25 adoption shall be filed in duplicate, verified by the

1 petitioners, and shall specify:

2 (a) the full names, ages, and place of residence of
3 the petitioners and, if married, the place and date of the
4 marriage;

5 (b) when the petitioners acquired or intend to acquire
6 custody of the child and from what person or agency;

7 (c) the date and place of birth of child, if known;

8 (d) the name used for the child in the proceeding and,
9 if a change in name is desired, the new name;

10 (e) that it is the desire of the petitioners that the
11 relationship of parent and child be established between them
12 and the child;

13 (f) a full description and statement of value of all
14 property owned or possessed by the child;

15 (g) facts, if any, which excuse consent on the part of
16 a parent to the adoption.

17 (2) One copy of the petition shall be retained by the
18 court. The other shall be sent to the department of social
19 and rehabilitation services. An additional copy shall be
20 sent to any agency participating in the adoption proceeding.

21 (3) Any written consent required by this part may be
22 attached to the petition or may be filed after the filing of
23 the petition, with the consent of the court.

24 (4) Except as provided in [section 11], a petition for
25 adoption must be filed within 1 year of the time the child

1 was placed for adoption with the petitioner."

2 Section 13. Section 40-8-122, MCA, is amended to read:

3 "40-8-122. Investigation. (1) Upon the filing of a
4 petition for adoption, the court shall order an
5 investigation to be made by the department ~~of social and~~
6 ~~rehabilitation services or any other private agency~~ by a
7 licensed and approved for such investigatory purpose by the
8 department of social and rehabilitation services, unless
9 such child placing agency or other person named by the
10 court. The investigation is may be waived by the department
11 of social and rehabilitation services, and shall in its
12 discretion further order that--a if the petitioner is a
13 stepparent of the child or if one of the petitioners is a
14 member of the child's extended family. The report of such
15 investigation shall be filed with the court by the
16 designated investigator within the time fixed by the court
17 and in no event more than 30 days from the issuance of the
18 order for investigation, unless time therefor is extended by
19 the court. Such the report of the investigation if ordered
20 by the court shall state:

21 (a) ~~include the conditions and antecedents of the~~
22 ~~child for the purpose of determining whether he is a proper~~
23 subject the child is legally free for adoption;

24 (b) appropriate inquiry to determine whether the
25 proposed home is a suitable one for the child;

1 (c) that medical and social histories have been
2 provided to the adoptive parent; and

3 (d) any other circumstances and conditions which may
4 have a bearing on the adoption and of which the court should
5 have knowledge.

6 (2) The court may order agencies named in subsection
7 (1) located in one or more counties to make separate
8 investigations on separate parts of the inquiry as may be
9 appropriate.

10 (3) The report of such the investigation shall become
11 a part of the files in the case and shall contain a definite
12 recommendation stating the reasons for or against the
13 proposed adoption ~~and state reasons therefor.~~"

14 Section 14. Section 40-8-123, MCA, is amended to read:

15 "40-8-123. Summary decree. If the child is ~~related by~~
16 blood to a member of the extended family of one of the
17 petitioners or is a stepchild of the petitioner or the court
18 finds that the best interests of the child will be furthered
19 thereby, the court in its discretion, after examination of
20 the a report specified in ordered pursuant to 40-8-122, if
21 ~~such report had been ordered by said court in its~~
22 discretion, may waive the entry of an interlocutory decree
23 and the waiting period of 6 months provided in 40-8-124 and
24 grant a final decree of adoption if satisfied that the
25 adoption is for in the best interests of the child."

1 Section 15. Repealer. Section 40-6-124, MCA, is
2 repealed.

3 Section 16. Codification instruction. (1) Sections 1
4 through 3 are intended to be codified as an integral part of
5 Title 40, chapter 6, part 1, and the provisions of Title 40,
6 chapter 6, part 1, apply to sections 1 through 3.

7 (2) Sections 10 and 11 are intended to be codified as
8 an integral part of Title 40, chapter 8, part 1, and the
9 provisions of Title 40, chapter 8, part 1, apply to sections
10 10 and 11.


-End-

March 31, 1981

GOVERNOR'S PROPOSED AMENDMENTS TO SENATE BILL NO. 267;
REFERENCE COPY, AS FOLLOWS:

1. Page 8, line 3
Following: "in"
Delete: "45-2-202"
Insert: "45-5-201"

State of Montana
Office of the Governor
Helena 59620



TED SCHWINDEN
GOVERNOR

March 31, 1981

The Honorable Jean A. Turnage
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

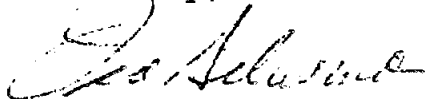
Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return Senate Bill No. 267, "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO ADOPTION AND TO AMEND THE LAWS RELATING TO RELINQUISHMENT AND PLACEMENT OF CHILDREN FOR ADOPTION BY THEIR PARENTS WITHOUT AGENCY INVOLVEMENT; AMENDING SECTIONS 40-6-125, 40-8-101, 40-8-103, 40-8-104, 40-8-111, 40-8-113, 40-8-121 THROUGH 40-8-123, MCA; AND REPEALING SECTION 40-6-124, MCA," without my signature and recommend the attached amendment for the following reason.

The amendment I have proposed is strictly for the purpose of correcting an incorrect cross-citation.

I urge your concurrence in this amendment.

Sincerely,



TED SCHWINDEN
Governor