

OK

HOUSE BILL NO. 3

(First Special Session)

INTRODUCED BY LORY, MAZUREK

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

IN THE HOUSE

November 16, 1981

Introduced and referred to
Committee on Judiciary.

November 20, 1981

Committee recommend bill do
pass as amended. Report
adopted.

On motion rules suspended and
bill placed on second reading
this day.

November 20, 1981

Second reading, do pass as
amended. Ayes, 91; Noes, 1.

On motion rules suspended and
bill placed on third reading
this day.

Third reading, passed. Ayes,
93; Noes, 2. Transmitted to
Senate.

IN THE SENATE

November 21, 1981

Introduced and referred to
Committee on Judiciary.

Committee recommend bill be
concurrent in. Report adopted.

On motion rules suspended. Bill
referred to second reading for
consideration this day.

November 21, 1981

Second reading, concurred in.

On motion rules suspended. Bill placed on calendar for third reading this day.

Third reading, concurred in.

IN THE HOUSE

November 21, 1981

Returned from Senate. Concurred in. Sent to enrolling.

Reported correctly enrolled.

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House BILL NO. 3 (SSI)

INTRODUCED BY Loy MAZUREK

BY REQUEST OF THE DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
RELATING TO RELINQUISHMENT OF CHILDREN FOR ADOPTION;
AMENDING SECTIONS 40-6-125 AND 40-8-103, MCA; REPEALING
SECTIONS 40-6-132 THROUGH 40-6-134, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION Section 1. Relinquishment of parental
rights -- form, execution, and revocation. (1) Any parent or
guardian who proposes to relinquish custody of a child for
purposes of placing the child for adoption may do so by
executing a relinquishment by which all parental rights to
the child are voluntarily relinquished to an agency of the
state of Montana or a licensed adoption agency.

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

(3) If the person from whom a relinquishment is
required is a member of any of the armed services or is in
prison, the relinquishment may be executed and acknowledged

1 before any person authorized by law to administer oaths.

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

8 (5) Upon the filing of a properly executed
9 relinquishment of a child by a parent or guardian, the court
10 shall immediately issue an order terminating the rights of
11 that parent or guardian to that child. If the rights of
12 both parents, the surviving parent, or the guardian have
13 been terminated, the court shall issue an order committing
14 the child to the agency of the state of Montana or the
15 licensed adoption agency to which the relinquishment was
16 given.

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

21 (7) Upon petition of a person who executed a
22 relinquishment and of the agency of the state of Montana or
23 licensed adoption agency to which the child was
24 relinquished, the court with which the relinquishment was
25 filed may grant a hearing to consider whether the

1 relinquishment should be revoked. A relinquishment may not
2 be revoked if the child has been placed for adoption. A
3 verbatim record of testimony related to the petition shall
4 be made.

5 Section 2. Section 40-6-125, MCA, is amended to read:

6 "40-6-125. Children born out of wedlock --
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to relinquish the child for adoption
9 and the relinquishment or consent of the birth father cannot
10 be obtained, the child may not be placed for adoption until
11 the parental rights of the father are terminated by the
12 court as provided in this part, by the court pursuant to
13 Title 41, chapter 3, or by a court of competent jurisdiction
14 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 ~~deliver-physical-custody-of-her-child-to-the~~
18 ~~department-or-a-licensed--child--placing--agency--by--fitting~~
19 execute a relinquishment terminating her rights to the
20 child. If the mother relinquishes the child, the agency of
21 the state of Montana or the licensed adoption agency to whom
22 the child is relinquished may file a petition under this
23 part or a petition of dependency or neglect pursuant to
24 40-6-132,--Upon Title 41, chapter 3. Pending disposition of
25 the petition, the court may enter an order authorizing

1 temporary care of the child.

2 (3) At the request of the mother, her execution of a
3 relinquishment 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 3. Section 40-8-103, MCA, is amended to read:

8 "40-8-103. Definitions. As used in this chapter,
9 unless the context otherwise requires the following
10 definitions apply:

11 (1) "Adoption" means the act of creating the legal
12 relationship between parent and child when it does not exist
13 genetically.

14 (2) "Adoptive parent" means an adult who has become
15 the mother or father of a child through the legal process of
16 adoption.

17 (3) "Agency" means a public or voluntary agency
18 licensed by any jurisdiction within the United States and
19 expressly empowered to place children as a preliminary to a
20 possible adoption.

21 (4) "Birth parent" means the mother or father of
22 genetic origin of a child but does not include a putative
23 father of a child.

24 (5) "Child" means any person under 18 years of age.

25 (6) "Court" means a Montana district court or a tribal

1 court of any Montana Indian reservation.

2 (7) "Department" means the department of social and
3 rehabilitation services, as established and provided for in
4 Title 2, chapter 15, part 22.

5 (8) "Extended family member" means an adult who is the
6 child's grandparent, aunt or uncle, brother or sister, niece
7 or nephew, or first cousin.

8 (9) "Parent" means the birth or adoptive mother or the
9 birth, adoptive, or legal father whose parental rights have
10 not been terminated.

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

16 (11) "Relinquishment" means the informed and voluntary
17 release in writing of all parental rights with respect to a
18 child by a parent to an individual or agency pursuant to
19 ~~40-6-132-through-40-6-134~~ [section 1]."

20 Section 4. Repealer. Sections 40-6-132 through
21 40-6-134, MCA, are repealed.

22 Section 5. Codification instruction. Section 1 is
23 intended to be codified as an integral part of Title 40,
24 chapter 6, part 1, and the provisions of Title 40, chapter
25 6, part 1, apply to section 1.

1 Section 6. Effective date. This act is effective on
2 passage and approval.

-End-

Approved by Committee
on Judiciary

1 HOUSE BILL NO. 3 (1st SS)
2 INTRODUCED BY LORY, MAZUREK
3 BY REQUEST OF THE DEPARTMENT OF
4 SOCIAL AND REHABILITATION SERVICES
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE LAWS
7 RELATING TO RELINQUISHMENT OF CHILDREN FOR ADOPTION;
8 AMENDING SECTIONS 40-6-125, AND 40-8-103, AND ~~40-8-109~~, MCA;
9 REPEALING SECTIONS 40-6-132 THROUGH 40-6-134, MCA; AND
10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 NEW SECTION Section 1. Relinquishment of parental
14 rights -- form, execution, and revocation. (1) Any parent or
15 guardian who proposes to relinquish custody of a child for
16 purposes of placing the child for adoption may do so by
17 executing a relinquishment by which all parental rights to
18 the child are voluntarily relinquished to an agency of the
19 state of Montana or a licensed adoption agency.

20 (2) Except as otherwise provided in this section, a
21 relinquishment shall be by a separate instrument executed
22 before a notary public.

23 (3) If the person from whom a relinquishment is
24 required is a member of any of the armed services or is in
25 prison, the relinquishment may be executed and acknowledged

1 before any person authorized by law to administer oaths.
2 (4) If the relinquishment is executed in another state
3 or country, the court having jurisdiction over the adoption
4 proceeding in this state shall determine whether the
5 relinquishment was executed in accordance with the laws of
6 that state or country and may not proceed unless it finds
7 that the relinquishment was so executed.

8 (5) Upon the filing of a properly AND VOLUNTARILY
9 executed relinquishment of a child by a parent or guardian,
10 the court shall immediately issue an order terminating the
11 rights of that parent or guardian to that child. If the
12 rights of both parents, the surviving parent, or the
13 guardian have been terminated, the court shall issue an
14 order committing the child to the agency of the state of
15 Montana or the licensed adoption agency to which the
16 relinquishment was given.

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

21 (7) Upon petition of a person who executed a
22 relinquishment and of the agency of the state of Montana or
23 licensed adoption agency to which the child was
24 relinquished, the court with which the relinquishment was
25 filed may grant a hearing to consider whether the

1 relinquishment should be revoked. A relinquishment may not
2 be revoked if the child has been placed for adoption. A
3 verbatim record of testimony related to the petition shall
4 be made.

5 Section 2. Section 40-6-125, MCA, is amended to read:

6 "40-6-125. Children born out of wedlock --
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to relinquish the child for adoption
9 and the relinquishment or consent of the birth father cannot
10 be obtained, the child may not be placed for adoption until
11 the parental rights of the father are terminated by the
12 court as provided in this part, by the court pursuant to
13 Title 41, chapter 3, or by a court of competent jurisdiction
14 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 ~~deliver physical custody of her child to the~~
18 ~~department or a licensed child-placing agency by filing~~
19 ~~execute a relinquishment terminating her rights to the~~
20 ~~child. If the mother relinquishes the child, the agency of~~
21 ~~the state of Montana or the licensed adoption agency to whom~~
22 ~~the child is relinquished may file a petition under this~~
23 ~~part or a petition of dependancy or neglect pursuant to~~
24 ~~40-6-132, upon Title 41, chapter 3. Pending disposition of~~
25 the petition, the court may enter an order authorizing

1 temporary care of the child.

2 ~~(3) At the request of the mother, her execution of a~~
3 ~~relinquishment 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 3. Section 40-8-103, MCA, is amended to read:

8 "40-8-103. Definitions. As used in this chapter,
9 unless the context otherwise requires the following
10 definitions apply:

11 (1) "Adoption" means the act of creating the legal
12 relationship between parent and child when it does not exist
13 genetically.

14 (2) "Adoptive parent" means an adult who has become
15 the mother or father of a child through the legal process of
16 adoption.

17 (3) "Agency" means a public or voluntary agency
18 licensed by any jurisdiction within the United States and
19 expressly empowered to place children as a preliminary to a
20 possible adoption.

21 (4) "Birth parent" means the mother or father of
22 genetic origin of a child but does not include a putative
23 father of a child.

24 (5) "Child" means any person under 18 years of age.

25 (6) "Court" means a Montana district court or a tribal

1 court of any Montana Indian reservation.

2 (7) "Department" means the department of social and
3 rehabilitation services, as established and provided for in
4 Title 2, chapter 15, part 22.

5 (8) "Extended family member" means an adult who is the
6 child's grandparent, aunt or uncle, brother or sister, niece
7 or nephew, or first cousin.

8 (9) "Parent" means the birth or adoptive mother or the
9 birth, adoptive, or legal father whose parental rights have
10 not been terminated.

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

16 (11) "Relinquishment" means the informed and voluntary
17 release in writing of all parental rights with respect to a
18 child by a parent to an ~~individual~~ or agency OR INDIVIDUAL
19 pursuant to ~~40-6-132 through 40-6-134~~ [section 1] OR
20 40-8-109, WHICHEVER IS APPLICABLE."

21 SECTION 4. SECTION 40-8-109, MCA, IS AMENDED TO READ:

22 "40-8-109. Placement for adoption by parents. (1) No
23 parent may make a placement of a child for adoption with a
24 person who is not a stepparent or a member of the child's
25 extended family unless the parent files a ~~notice of parenta~~

1 placement with the district court for the county in which
2 the prospective adoptive parent or the parent making the
3 placement resides:

4 (a) a notice of parental placement; and

5 (b) a relinquishment of parental rights to the
6 prospective adoptive parents executed voluntarily and in
7 accordance with [section 1(2) through (4)].

8 (2) The notice of parental placement and the
9 relinquishment shall be filed prior to a parent's placement
10 of the child with a person who intends to adopt the child.
11 The notice of parental placement shall contain the following
12 information:

13 (a) the name and address of each birth parent, if
14 known, and if unknown, the steps taken to ascertain the
15 whereabouts of the parent or parents;

16 (b) the name and address of each prospective adoptive
17 parent;

18 (c) the name and address or expected date and place of
19 birth of the child; and

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

23 (3) Upon receipt of a notice of parental placement and
24 a relinquishment, the court shall require that the
25 department examine the child and conduct interviews with the

1 birth parents and prospective adoptive parents and report to
2 the court within 30 days but not earlier than 5 days after
3 the birth of the child. The report must state whether the
4 following requirements for placement have been met:

5 (a) that the decision to place was voluntarily made by
6 the birth parents;

7 (b) that the department has no temporary authority to
8 investigate or provide protective services to the family
9 under 41-3-402;

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

16 (d) that the prospective adoptive parents have been
17 provided a medical and social history of the child and birth
18 parents; and

19 (e) that the proposed placement is in the child's best
20 interest.

21 (4) Within 45 days of filing of the notice of parental
22 placement ~~and the relinquishment~~, the court shall schedule a
23 hearing to consider the proposed placement.

24 (5) (a) At least 5 days' notice of the time and place
25 of the hearing must be given to the birth parents, the

1 prospective adoptive parents, any named guardian ad litem,
2 and the agency or person who conducted the investigation
3 under subsection (3).

4 (b) The hearing shall be closed to all persons except
5 those persons entitled to notice and their representatives
6 or counsel.

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

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

16 Section 5. Repealer. Sections 40-6-132 through
17 40-6-134, MCA, are repealed.

18 Section 6. Codification instruction. Section 1 is
19 intended to be codified as an integral part of Title 40,
20 chapter 6, part 1, and the provisions of Title 40, chapter
21 6, part 1, apply to section 1.

22 Section 7. Effective date. This act is effective on
23 passage and approval.

-End-

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 2 INTRODUCED BY LORY, MAZUREK
 3 BY REQUEST OF THE DEPARTMENT OF
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 14 rights -- form, execution, and revocation. (1) Any parent or
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 16 purposes of placing the child for adoption may do so by
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 18 the child are voluntarily relinquished to an agency of the
 19 state of Montana or a licensed adoption agency.

20 (2) Except as otherwise provided in this section, a
 21 relinquishment shall be by a separate instrument executed
 22 before a notary public.

23 (3) If the person from whom a relinquishment is
 24 required is a member of any of the armed services or is in
 25 prison, the relinquishment may be executed and acknowledged

1 before any person authorized by law to administer oaths.

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 3 or country, the court having jurisdiction over the adoption
 4 proceeding in this state shall determine whether the
 5 relinquishment was executed in accordance with the laws of
 6 that state or country and may not proceed unless it finds
 7 that the relinquishment was so executed.

8 (5) Upon the filing of a properly AND VOLUNTARILY
 9 executed relinquishment of a child by a parent or guardian,
 10 the court shall immediately issue an order terminating the
 11 rights of that parent or guardian to that child. If the
 12 rights of both parents, the surviving parent, or the
 13 guardian have been terminated, the court shall issue an
 14 order committing the child to the agency of the state of
 15 Montana or the licensed adoption agency to which the
 16 relinquishment was given.

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

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 22 relinquishment and of the agency of the state of Montana or
 23 licensed adoption agency to which the child was
 24 relinquished, the court with which the relinquishment was
 25 filed may grant a hearing to consider whether the

1 relinquishment should be revoked. A relinquishment may not
2 be revoked if the child has been placed for adoption. A
3 verbatim record of testimony related to the petition shall
4 be made.

5 Section 2. Section 40-6-125, MCA, is amended to read:
6 "40-6-125. Children born out of wedlock --
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to relinquish the child for adoption
9 and the relinquishment or consent of the birth father cannot
10 be obtained, the child may not be placed for adoption until
11 the parental rights of the father are terminated by the
12 court as provided in this part, by the court pursuant to
13 Title 41, chapter 3, or by a court of competent jurisdiction
14 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 deliver physical custody of her child to the~~
18 ~~department or a licensed child placing agency by filing~~
19 ~~execute a relinquishment terminating her rights to the~~
20 ~~child. If the mother relinquishes the child, the agency of~~
21 ~~the state of Montana or the licensed adoption agency to whom~~
22 ~~the child is relinquished may file a petition under this~~
23 ~~part or a petition of dependency or neglect pursuant to~~
24 ~~40-6-122. Upon Title 41, chapter 3, pending disposition of~~
25 ~~the petition, the court may enter an order authorizing~~

1 temporary care of the child.

2 ~~(3) At the request of the mother, her execution of a~~
3 ~~relinquishment shall be delayed until after the court has~~
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5 ~~custody of the child to the father or terminated his rights~~
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7 Section 3. Section 40-8-103, MCA, is amended to read:
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9 unless the context otherwise requires the following
10 definitions apply:

11 (1) "Adoption" means the act of creating the legal
12 relationship between parent and child when it does not exist
13 genetically.

14 (2) "Adoptive parent" means an adult who has become
15 the mother or father of a child through the legal process of
16 adoption.

17 (3) "Agency" means a public or voluntary agency
18 licensed by any jurisdiction within the United States and
19 expressly empowered to place children as a preliminary to a
20 possible adoption.

21 (4) "Birth parent" means the mother or father of
22 genetic origin of a child but does not include a putative
23 father of a child.

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1 court of any Montana Indian reservation.

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3 rehabilitation services, as established and provided for in
4 Title 2, chapter 15, part 22.

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6 child's grandparent, aunt or uncle, brother or sister, niece
7 or nephew, or first cousin.

8 (9) "Parent" means the birth or adoptive mother or the
9 birth, adoptive, or legal father whose parental rights have
10 not been terminated.

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

16 (11) "Relinquishment" means the informed and voluntary
17 release in writing of all parental rights with respect to a
18 child by a parent to an ~~individual~~ or agency OR INDIVIDUAL
19 pursuant to ~~40-6-132 through 40-6-134~~ [section 1] OR
20 40-8-109, WHICHEVER IS APPLICABLE."

21 SECTION 4. SECTION 40-8-109, MCA, IS AMENDED TO READ:

22 "40-8-109. Placement for adoption by parents. (1) No
23 parent may make a placement of a child for adoption with a
24 person AN INDIVIDUAL who is not a stepparent or a member of
25 the child's extended family unless the parent files a notice

1 ~~of parental placement~~ with the district court for the county
2 in which the prospective adoptive parent or the parent
3 making the placement resides;

4 (a) a notice of parental placement; and

5 (b) a relinquishment of parental rights to the
6 prospective adoptive parents executed voluntarily and in
7 accordance with [section 1(2) through (4)].

8 (2) The notice of parental placement ~~and the~~
9 ~~relinquishment~~ shall be filed prior to a parent's placement
10 of the child with ~~a person~~ AN INDIVIDUAL who intends to
11 adopt the child. The notice of parental placement shall
12 contain the following information:

13 (a) the name and address of each birth parent, if
14 known, and if unknown, the steps taken to ascertain the
15 whereabouts of the parent or parents;

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17 parent;

18 (c) the name and address or expected date and place of
19 birth of the child; and

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

23 (3) Upon receipt of a notice of parental placement ~~and~~
24 ~~a relinquishment~~, the court shall require that the
25 department examine the child and conduct interviews with the

1 birth parents and prospective adoptive parents and report to
 2 the court within 30 days but not earlier than 5 days after
 3 the birth of the child. The report must state whether the
 4 following requirements for placement have been met:

5 (a) that the decision to place was voluntarily made by
 6 the birth parents;

7 (b) that the department has no temporary authority to
 8 investigate or provide protective services to the family
 9 under 41-3-402;

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

16 (d) that the prospective adoptive parents have been
 17 provided a medical and social history of the child and birth
 18 parents; and

19 (e) that the proposed placement is in the child's best
 20 interest.

21 (4) Within 45 days of filing of the notice of parental
 22 placement ~~and the relinquishment~~, the court shall schedule a
 23 hearing to consider the proposed placement.

24 (5) (a) At least 5 days' notice of the time and place
 25 of the hearing must be given to the birth parents, the

1 prospective adoptive parents, any named guardian ad litem,
 2 and the agency or person who conducted the investigation
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4 (b) The hearing shall be closed to all persons except
 5 those persons entitled to notice and their representatives
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7 (6) If the court finds that all requirements for
 8 placement have been met, the court may issue an order or
 9 schedule a hearing for the purpose of terminating parental
 10 rights and granting temporary custody to the prospective
 11 adoptive parents. The prospective adoptive parents must file
 12 their petition to adopt within 30 days of the order.

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 14 adoptive placement have not been met, the court may issue
 15 any order appropriate to protect the child."

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

8 (5) Upon the filing of a properly AND VOLUNTARILY
 9 executed relinquishment of a child by a parent or guardian,
 10 the court shall immediately issue an order terminating the
 11 rights of that parent or guardian to that child. If the
 12 rights of both parents, the surviving parent, or the
 13 guardian have been terminated, the court shall issue an
 14 order committing the child to the agency of the state of
 15 Montana or the licensed adoption agency to which the
 16 relinquishment was given.

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

21 (7) Upon petition of a person who executed a
 22 relinquishment and of the agency of the state of Montana or
 23 licensed adoption agency to which the child was
 24 relinquished, the court with which the relinquishment was
 25 filed may grant a hearing to consider whether the

1 relinquishment should be revoked. A relinquishment may not
2 be revoked if the child has been placed for adoption. A
3 verbatim record of testimony related to the petition shall
4 be made.

5 Section 2. Section 40-6-125, MCA, is amended to read:

6 "40-6-125. Children born out of wedlock --
7 relinquishment -- consent. (1) If the mother of a child born
8 out of wedlock proposes to relinquish the child for adoption
9 and the relinquishment or consent of the birth father cannot
10 be obtained, the child may not be placed for adoption until
11 the parental rights of the father are terminated by the
12 court as provided in this part, by the court pursuant to
13 Title 41, chapter 3, or by a court of competent jurisdiction
14 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 ~~deliver physical custody of her child to the~~
18 ~~department or a licensed child placing agency by filing~~
19 ~~execute a relinquishment terminating her rights to the~~
20 ~~child. If the mother relinquishes the child, the agency of~~
21 ~~the state of Montana or the licensed adoption agency to whom~~
22 ~~the child is relinquished may file a petition under this~~
23 ~~part or a petition of dependency or neglect pursuant to~~
24 ~~40-6-132. Upon Title 41, chapter 3, Pending disposition of~~
25 ~~the petition, the court may enter an order authorizing~~

1 temporary care of the child.

2 ~~(3) At the request of the mother, her execution of a~~
3 ~~relinquishment 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 3. Section 40-8-103, MCA, is amended to read:

8 "40-8-103. Definitions. As used in this chapter,
9 unless the context otherwise requires the following
10 definitions apply:

11 (1) "Adoption" means the act of creating the legal
12 relationship between parent and child when it does not exist
13 genetically.

14 (2) "Adoptive parent" means an adult who has become
15 the mother or father of a child through the legal process of
16 adoption.

17 (3) "Agency" means a public or voluntary agency
18 licensed by any jurisdiction within the United States and
19 expressly empowered to place children as a preliminary to a
20 possible adoption.

21 (4) "Birth parent" means the mother or father of
22 genetic origin of a child but does not include a putative
23 father of a child.

24 (5) "Child" means any person under 18 years of age.

25 (6) "Court" means a Montana district court or a tribal

1 court of any Montana Indian reservation.

2 (7) "Department" means the department of social and
3 rehabilitation services, as established and provided for in
4 Title 2, chapter 15, part 22.

5 (8) "Extended family member" means an adult who is the
6 child's grandparent, aunt or uncle, brother or sister, niece
7 or nephew, or first cousin.

8 (9) "Parent" means the birth or adoptive mother or the
9 birth, adoptive, or legal father whose parental rights have
10 not been terminated.

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

16 (11) "Relinquishment" means the informed and voluntary
17 release in writing of all parental rights with respect to a
18 child by a parent to an ~~individual~~ or agency OR INDIVIDUAL
19 pursuant to ~~40-6-132 through 40-6-134~~ [section 1] OR
20 40-8-109, WHICHEVER IS APPLICABLE."

21 SECTION 4. SECTION 40-8-109, MCA, IS AMENDED TO READ:

22 "40-8-109. Placement for adoption by parents. (1) No
23 parent may make a placement of a child for adoption with a
24 person AN INDIVIDUAL who is not a stepparent or a member of
25 the child's extended family unless the parent files a notice

1 ~~of parental placement~~ with the district court for the county
2 in which the prospective adoptive parent or the parent
3 making the placement resides;

4 (a) a notice of parental placement; and
5 (b) a relinquishment of parental rights to the
6 prospective adoptive parents executed voluntarily and in
7 accordance with [section 1(2) through (4)].

8 (2) The notice of parental placement ~~and the~~
9 ~~relinquishment~~ shall be filed prior to a parent's placement
10 of the child with a ~~person~~ AN INDIVIDUAL who intends to
11 adopt the child. The notice of parental placement shall
12 contain the following information:

13 (a) the name and address of each birth parent, if
14 known, and if unknown, the steps taken to ascertain the
15 whereabouts of the parent or parents;

16 (b) the name and address of each prospective adoptive
17 parent;

18 (c) the name and address or expected date and place of
19 birth of the child; and

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

23 (3) Upon receipt of a notice of parental placement ~~and~~
24 ~~a relinquishment~~, the court shall require that the
25 department examine the child and conduct interviews with the

1 birth parents and prospective adoptive parents and report to
 2 the court within 30 days but not earlier than 5 days after
 3 the birth of the child. The report must state whether the
 4 following requirements for placement have been met:

5 (a) that the decision to place was voluntarily made by
 6 the birth parents;

7 (b) that the department has no temporary authority to
 8 investigate or provide protective services to the family
 9 under 41-3-402;

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

16 (d) that the prospective adoptive parents have been
 17 provided a medical and social history of the child and birth
 18 parents; and

19 (e) that the proposed placement is in the child's best
 20 interest.

21 (4) Within 45 days of filing of the notice of parental
 22 placement ~~and the relinquishment~~, the court shall schedule a
 23 hearing to consider the proposed placement.

24 (5) (a) At least 5 days' notice of the time and place
 25 of the hearing must be given to the birth parents, the

1 prospective adoptive parents, any named guardian ad litem,
 2 and the agency or person who conducted the investigation
 3 under subsection (3).

4 (b) The hearing shall be closed to all persons except
 5 those persons entitled to notice and their representatives
 6 or counsel.

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

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

16 Section 5. Repealer. Sections 40-6-132 through
 17 40-6-134, MCA, are repealed.

18 Section 6. Codification instruction. Section 1 is
 19 intended to be codified as an integral part of Title 40,
 20 chapter 6, part 1, and the provisions of Title 40, chapter
 21 6, part 1, apply to section 1.

22 Section 7. Effective date. This act is effective on
 23 passage and approval.

-End-