HOUSE BILL NO. 188

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INTRODUCED BY BRADLEY, KITSELMAN, HAGER, MAZUREK

IN THE, HOUSE

JANUARY 14, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 29, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
JANUARY 30, 1987	PRINTING REPORT.
JANUARY 31, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 2, 1987	SECOND READING, DO PASS.
FEBRUARY 3, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 98; NOES, 0.
	TRANSMITTED TO SENATE.
:	IN THE SENATE
FEBRUARY 4, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 14, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 18, 1987	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
MARCH 19, 1987	SECOND READING, CONCURRED IN.
MARCH 21, 1987	THIRD READING, CONCURRED IN. AYES, 40; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 21, 1987

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RECEIVED FROM SENATE.

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SENT TO ENROLLING.

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HB_____ BILL NO. 188 1 INTRODUCED BY Bradley, Kitacimon Hager / Alyuch 2 з A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS 4 RELATING TO THE ADOPTION OF CHILDREN TO CLARIFY THE 5 6 PROCEDURE FOR ADOPTION; AND AMENDING SECTIONS 40-8-109 AND 40-8-121 THROUGH 40-8-124, MCA." 7 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 40-8-109, MCA, is amended to read: 10 11 "40-8-109. Placement for adoption by parents. (1) No parent may make a placement of a child for adoption with an 12 13 individual who is not a stepparent or a member of the child's extended family unless the parent files with the 14 15 district court for the county in which the prospective 16 adoptive parent or the parent making the placement resides: 17 (a) a notice of parental placement; and

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

(2) The notice of parental placement and the
relinguishment shall be filed prior to a parent's placement
of the child with an individual who intends to adopt the
child. The notice of parental placement shall contain the
following information:

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

4 (b) the name and address of each prospective adoptive5 parent;

6 (c) the name and address or expected date and place of7 birth of the child; and

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

11 (3) Upon receipt of a notice of parental placement and 12 a relinquishment, the court shall require that the 13 department examine the child and conduct interviews with the 14 birth parents and prospective adoptive parents and report to 15 the court within 30 days but not earlier than 5 days after 16 the birth of the child. The report must state whether the 17 following requirements for placement have been met:

18 (a) that the decision to place was voluntarily made by19 the birth parents;

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

(c) that the birth parents, the prospective adoptive
parents, and their representatives have agreed in writing to
provide the court with sworn affidavits containing itemized

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statements of all fees charged or to be charged, expenses incurred or to be incurred, and payments received or to be received in connection with the proposed adoptive placement; (d) that the prospective adoptive parents have been provided a medical and social history of the child and birth parents; and

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7 (e) that the proposed placement is in the child's best8 interest.

9 (4) Within 45 days of filing of the notice of parental
10 placement and the relinquishment, the court shall schedule a
11 hearing to consider the proposed placement.

12 (5) (a) At least 5 days' notice of the time and place 13 of the hearing must be given to the birth parents, the 14 prospective adoptive parents, any named guardian ad litem, 15 and the agency-or-person--who--conducted--the--investigation 16 under-subsection-(3) department.

17 (b) The hearing shall be closed to all persons except
18 those persons entitled to notice and their representatives
19 or counsel.

20 (6) If the court finds that all requirements for 21 placement have been met, the court may issue an order or 22 schedule a hearing for the purpose of terminating parental 23 rights and granting temporary custody to the prospective 24 adoptive parents. The prospective adoptive parents must file 25 their petition to adopt within 30 days of the order.

(7) If the court finds that all requirements for the 1 adoptive placement have not been met, the court may issue 2 any order appropriate to protect the child." 3 Section 2. Section 40-8-121, MCA, is amended to read: 4 "40-8-121. Petition for adoption. (1) A petition for 5 adoption shall be filed in duplicate, verified by the 6 petitioners, and shall specify: 7 (a) the full names, ages, and place of residence of 8 the petitioners and, if married, the place and date of the 9 10 marriage; (b) when the petitioners acquired or intend to acquire 11 custody of the child and from what person or agency; 12 (c) the date and place of birth of child, if known; 13 (d) the name used for the child in the proceeding and, 14 if a change in name is desired, the new name; 15 (e) that it is the desire of the petitioners that the 16 relationship of parent and child be established between them 17

18 and the child;

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

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

(2) One copy of the petition shall be retained by the
 court. The other shall be sent to the department of-social
 and-rehabilitation-services-An-additional--copy--shall--be

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sent--to-any or to the child placing agency participating in
 the adoption proceeding.

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

6 (4) Except as provided in 40-8-109, a petition for
7 adoption must be filed within 1 year of the time the child
8 was placed for adoption with the petitioner."

9 Section 3. Section 40-8-122, MCA, is amended to read: "40-8-122. Investigation. (1) Upon the filing of a 10 11 petition for adoption, the court shall order an 12 investigation to be made by the department or by a licensed 13 child placing agency or other person named by the court, 14 unless an investigation has been made prior to the filing as provided in subsection (4). The investigation may be waived 15 16 if the petitioner is a stepparent of the child or if one of the petitioners is a member of the child's extended family. 17 18 The report of investigation shall be filed with the court by the investigator at the time the petition is filed or within 19 30 days from the issuance of the order for investigation, 20 21 unless time therefor is extended by the court. The report of the investigation shall state: 22

23 (a) whether the child is legally free for adoption;

(b) whether the proposed home is a suitable one forthe child;

(c) that medical and social histories have been
 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 the investigation shall become a 11 part of the files in the case and shall contain a definite 12 recommendation stating the reasons for or against the 13 proposed adoption.

(4) (a) If an investigation has been made within the 6
 months immediately preceding the filing of the petition, the
 court does not have to order a new investigation to be made.
 (b) The report of the earlier investigation must
 contain the information and recommendation specified by

19 <u>subsections (1) and (3) and be filed with the petition for</u>
20 adoption."

Section 4. Section 40-8-123, MCA, is amended to read: "40-8-123. Summary decree. (1) If the child is a member of the extended family of one of the petitioners or is a stepchild of the petitioner or the court finds that the best interests of the child will be furthered thereby, the

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1 court in its discretion, after examination of a report 2 ordered <u>or received</u> pursuant to 40-8-122, may waive the 3 entry of an interlocutory decree and the waiting period of 6 4 months provided in 40-8-124 and grant a final decree of 5 adoption if satisfied that the adoption is in the best 6 interests of the child.

7 (2) The department or the child placing agency may
8 recommend in the investigation report filed with the
9 petition for adoption that the court issue a summary decree
10 as provided for in subsection (1) if:

(a) a period of 6 months has elapsed since the
 department or licensed child placing agency placed the child

13 for adoption; and

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14 (b) the department or licensed child placing agency15 conducted an investigation during that period."

Section 5. Section 40-8-124, MCA, is amended to read: "40-8-124. Interlocutory and final decree. (1) Upon examination of the report described in 40-8-122, if such report has been considered necessary by the court, and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

(2) When a petition has been filed seeking the
adoption of a child, the court must cause service of process
to be made on the parent or parents of the child, except in

those cases hereinafter provided, in the following manner: 1 (a) The court shall order a citation to issue to the 2 parent or parents in the name of the state of Montana and 3 under the seal of the court directing such parent or parents 4 to appear in court at a time to be fixed by the court and 5 show cause why the petition should not be granted. 6 (b) Such citation, together with a copy of the 7 petition for adoption, shall be personally served upon such 8 parent or parents. If, however, any such parent or parents 9

10 cannot be found within this state, service may be had by
11 publication of a copy of the citation in the manner provided
12 for the publication of summons by Rule 4, M.R.Civ.P.

13 (3) If, after completion of such service, any parent 14 so served does not appear, the court may act upon the 15 petition and the order of the court thereon shall be binding 16 upon all persons so served; provided that any such person 17 may appeal from the order in the manner and form provided 18 for appeals from a judgment in civil actions.

(4) The petitioners and the child shall appear at the
hearing, unless the presence of the child is waived by the
court.

(5) Service of process, as aforesaid, need not be made
on a parent who has consented in writing to an adoption or
on any parent whose consent to adoption is not required
under the provisions of 40-8-111, and service of process

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shall not be made on any parent who has relinquished his 1 2 child to the department of social and rehabilitation services or an adoption agency licensed by the department. 3 (6) After an interlocutory decree has been issued by 4 the court or after the date of placement for adoption, the 5 investigator, if any, shall observe the child in his 6 7 adoptive home and report in writing to the court within 6 8 months on any circumstances or conditions which may have a 9 bearing on the adoption. After 6 months from the date of the 10 interlocutory decree or the date of placement for adoption, the petitioners may apply to the court for a final decree of 11 12 adoption. The court shall thereupon set a time and place for final hearing. Notice of the time and date of the hearing 13 shall be served on the department of---social---and 14 15 rehabilitation--services-and-the-investigatory-if-any or the 16 licensed child placing agency or any other person named by the court. The investigator, if any, shall file with the 17 court a written report of his findings and recommendations 18 19 and certify that the described investigation, if any, has 20 been made since the granting of the interlocutory decree or 21 the date of placement for adoption. After hearing on said 22 application, at which the petitioners and the child shall 23 appear, unless the presence of the child is waived by the court, the court may enter a final decree of adoption if 24 satisfied that the adoption is for the best interests of the 25

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1 child. If the adoption is denied, an appropriate order shall

2 be made as to the future custody of the child."

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3 <u>NEW SECTION.</u> Section 6. Extension of authority. Any 4 existing authority of the department of social and 5 rehabilitation services to make rules on the subject of the 6 provisions of this act is extended to the provisions of this 7 act.

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APPROVED BY COMMITTEE ON JUDICIARY

HB_ BILL NO. 188 INTRODUCED BY Bradley, Kilocimited Hayer Manuel 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS 4 RELATING TO THE ADOPTION OF CHILDREN TO CLARIFY THE 5 6 PROCEDURE FOR ADOPTION; AND AMENDING SECTIONS 40-8-109 AND 7 40-8-121 THROUGH 40-8-124, MCA." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 40-8-109, MCA, is amended to read: 10 11 "40-8-109, Placement for adoption by parents, (1) No 12 parent may make a placement of a child for adoption with an individual who is not a stepparent or a member of the 13 14 child's extended family unless the parent files with the district court for the county in which the prospective 15 16 adoptive parent or the parent making the placement resides: 17 (a) a notice of parental placement; and 18 (b) a relinguishment of parental rights to the prospective adoptive parents executed voluntarily and in 19

20 accordance with 40-6-135(2) through (4).

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relinguishment shall be filed prior to a parent's placement
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(a) the name and address of each birth parent, if
 known, and if unknown, the steps taken to ascertain the
 whereabouts of the parent or parents;

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6 (c) the name and address or expected date and place of7 birth of the child; and

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

11 (3) Upon receipt of a notice of parental placement and 12 a relinquishment, the court shall require that the 13 department examine the child and conduct interviews with the 14 birth parents and prospective adoptive parents and report to 15 the court within 30 days but not earlier than 5 days after 16 the birth of the child. The report must state whether the 17 following requirements for placement have been met:

18 (a) that the decision to place was voluntarily made by 19 the birth parents;

(b) that the department has no temporary authority to
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under 41-3-402;

(c) that the birth parents, the prospective adoptive
parents, and their representatives have agreed in writing to
provide the court with sworn affidavits containing itemized

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marriage;

statements of all fees charged or to be charged, expenses 1 incurred or to be incurred, and payments received or to be 2 received in connection with the proposed adoptive placement; 3 (d) that the prospective adoptive parents have been 4 5 provided a medical and social history of the child and birth 6 parents: and

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

9 (4) Within 45 days of filing of the notice of parental 10 placement and the relinguishment, the court shall schedule a hearing to consider the proposed placement. 11

12 (5) (a) At least 5 days' notice of the time and place of the hearing must be given to the birth parents, the 13 14 prospective adoptive parents, any named quardian ad litem, 15 and the agency-or-person--who--conducted--the--investigation 16 under-subsection-(3) department.

17 (b) The hearing shall be closed to all persons except those persons entitled to notice and their representatives 18 19 or counsel.

(6) If the court finds that all requirements for 20 21 placement have been met, the court may issue an order or 22 schedule a hearing for the purpose of terminating parental rights and granting temporary custody to the prospective 23 adoptive parents. The prospective adoptive parents must file 24 their petition to adopt within 30 days of the order. 25

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custody of the child and from what person or agency;

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

(d) the name used for the child in the proceeding and, 14

15 if a change in name is desired, the new name:

16 (e) that it is the desire of the petitioners that the relationship of parent and child be established between them 17 18 and the child;

(f) a full description and statement of value of all 19 20 property owned or possessed by the child;

21 (g) facts, if any, which excuse consent on the part of 22 a parent to the adoption.

23 (2) One copy of the petition shall be retained by the 24 court. The other shall be sent to the department of-social 25 and-rehabilitation-services-An--additional--copy--shall--be

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1 sent--to-any or to the child placing agency participating in the adoption proceeding. 2 (3) Any written consent required by this part may be 3 attached to the petition or may be filed after the filing of 4 the petition, with the consent of the court. 5 (4) Except as provided in 40-8-109, a petition for 6 adoption must be filed within 1 year of the time the child 7 was placed for adoption with the petitioner." 8 Section 3. Section 40-8-122, MCA, is amended to read: 9 "40-8-122. Investigation. (1) Upon the filing of a 10 petition for adoption, the court shall order an 11 investigation to be made by the department or by a licensed 12 child placing agency or other person named by the court, 13 unless an investigation has been made prior to the filing as 14 provided in subsection (4). The investigation may be waived 15 if the petitioner is a stepparent of the child or if one of 16 the petitioners is a member of the child's extended family. 17 The report of investigation shall be filed with the court by 18 the investigator at the time the petition is filed or within 19 30 days from the issuance of the order for investigation, 20 unless time therefor is extended by the court. The report of 21 22 the investigation shall state: 23 (a) whether the child is legally free for adoption;

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1 (c) that medical and social histories have been provided to the adoptive parent; and 2 (d) any other circumstances and conditions which may 3 have a bearing on the adoption and of which the court should 4 have knowledge.

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

14 (4) (a) If an investigation has been made within the 6 15 months immediately preceding the filing of the petition, the 16 court does not have to order a new investigation to be made. (b) The report of the earlier investigation must 17 18 contain the information and recommendation specified by 19 subsections (1) and (3) and be filed with the petition for adoption." 20 21 Section 4. Section 40-8-123, MCA, is amended to read: 22 "40-8-123. Summary decree. (1) If the child is a 23 member of the extended family of one of the petitioners or is a stepchild of the petitioner or the court finds that the 24

25 best interests of the child will be furthered thereby, the

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1 court in its discretion, after examination of a report 2 ordered <u>or received</u> pursuant to 40-8-122, may waive the 3 entry of an interlocutory decree and the waiting period of 6 4 months provided in 40-8-124 and grant a final decree of 5 adoption if satisfied that the adoption is in the best 6 interests of the child.

7 (2) The department or the child placing agency may 8 recommend in the investigation report filed with the 9 petition for adoption that the court issue a summary decree 10 as provided for in subsection (1) if:

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those cases hereinafter provided, in the following manner; 1 2 (a) The court shall order a citation to issue to the parent or parents in the name of the state of Montana and 3 under the seal of the court directing such parent or parents 4 to appear in court at a time to be fixed by the court and 5 show cause why the petition should not be granted. 6 7 (b) Such citation, together with a copy of the 8 petition for adoption, shall be personally served upon such 9 parent or parents. If, however, any such parent or parents 10 cannot be found within this state, service may be had by 11 publication of a copy of the citation in the manner provided 12 for the publication of summons by Rule 4, M.R.Civ.P. (3) If, after completion of such service, any parent 13 14 so served does not appear, the court may act upon the 15 petition and the order of the court thereon shall be binding upon all persons so served; provided that any such person 16 17 may appeal from the order in the manner and form provided for appeals from a judgment in civil actions. 18 (4) The petitioners and the child shall appear at the 19 hearing, unless the presence of the child is waived by the 20 21 court. 22 (5) Service of process, as aforesaid, need not be made

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5 parent;

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provide the court with sworn affidavits containing itemized

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THIRD READING

statements of all fees charged or to be charged, expenses incurred or to be incurred, and payments received or to be received in connection with the proposed adoptive placement; (d) that the prospective adoptive parents have been provided a medical and social history of the child and birth parents; and

7 (e) that the proposed placement is in the child's best8 interest.

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10 placement and the relinquishment, the court shall schedule a
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rights and granting temporary custody to the prospective
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4 Section 2. Section 40-8-121, MCA, is amended to read:
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6 adoption shall be filed in duplicate, verified by the
7 petitioners, and shall specify:

8 (a) the full names, ages, and place of residence of
9 the petitioners and, if married, the place and date of the
10 marriage;

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

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

14 (d) the name used for the child in the proceeding and,

15 if a change in name is desired, the new name;

16 (e) that it is the desire of the petitioners that the 17 relationship of parent and child be established between them 18 and the child;

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 (1) located in one or more counties to make separate

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

(3) The report of the investigation shall become a
part of the files in the case and shall contain a definite
recommendation stating the reasons for or against the
proposed adoption.

14 (4) (a) If an investigation has been made within the 6 15 months immediately preceding the filing of the petition, the 16 court does not have to order a new investigation to be made. (b) The report of the earlier investigation must 17 contain the information and recommendation specified by 18 subsections (1) and (3) and be filed with the petition for 19 20 adoption." 21 Section 4. Section 40-8-123, MCA, is amended to read: 22 "40-8-123. Summary decree. (1) If the child is a member of the extended family of one of the petitioners or 23 is a stepchild of the petitioner or the court finds that the 24

25 best interests of the child will be furthered thereby, the

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1 court in its discretion, after examination of a report 2 ordered <u>or received</u> pursuant to 40-8-122, may waive the 3 entry of an interlocutory decree and the waiting period of 6 4 months provided in 40-8-124 and grant a final decree of 5 adoption if satisfied that the adoption is in the best 6 interests of the child.

7 (2) The department or the child placing agency may
8 recommend in the investigation report filed with the
9 petition for adoption that the court issue a summary decree
10 as provided for in subsection (1) if:

11 (a) a period of 6 months has elapsed since the 12 department or licensed child placing agency placed the child 13 for adoption; and

(b) the department or licensed child placing agency
 conducted an investigation during that period."

16 Section 5. Section 40-8-124, MCA, is amended to read: 17 "40-8-124. Interlocutory and final decree. (1) Upon 18 examination of the report described in 40-8-122, if such 19 report has been considered necessary by the court, and after 20 hearing, the court may issue an interlocutory decree giving 21 the care and custody to the petitioners pending the further 22 order of the court.

(2) When a petition has been filed seeking the
adoption of a child, the court must cause service of process
to be made on the parent or parents of the child, except in

those cases hereinafter provided, in the following manner:
(a) The court shall order a citation to issue to the
parent or parents in the name of the state of Montana and
under the seal of the court directing such parent or parents
to appear in court at a time to be fixed by the court and
show cause why the petition should not be granted.

7 (b) Such citation, together with a copy of the 8 petition for adoption, shall be personally served upon such 9 parent or parents. If, however, any such parent or parents 10 cannot be found within this state, service may be had by 11 publication of a copy of the citation in the manner provided 12 for the publication of summons by Rule 4, M.R.Civ.P.

13 (3) If, after completion of such service, any parent 14 so served does not appear, the court may act upon the 15 petition and the order of the court thereon shall be binding 16 upon all persons so served; provided that any such person 17 may appeal from the order in the manner and form provided 18 for appeals from a judgment in civil actions.

(4) The petitioners and the child shall appear at the
hearing, unless the presence of the child is waived by the
court.

(5) Service of process, as aforesaid, need not be made
on a parent who has consented in writing to an adoption or
on any parent whose consent to adoption is not required
under the provisions of 40-8-111, and service of process

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shall not be made on any parent who has relinquished his 1 2 child to the department of social and rehabilitation 3 services or an adoption agency licensed by the department. 4 (6) After an interlocutory decree has been issued by 5 the court or after the date of placement for adoption, the investigator, if any, shall observe the child in his 6 7 adoptive home and report in writing to the court within 6 8 months on any circumstances or conditions which may have a bearing on the adoption. After 6 months from the date of the 9 10 interlocutory decree or the date of placement for adoption, the petitioners may apply to the court for a final decree of 11 adoption. The court shall thereupon set a time and place for 12 final hearing. Notice of the time and date of the hearing 13 shall be served on the department of---social---and 14 15 rehabilitation--services-and-the-investigator7-if-any or the 16 licensed child placing agency or any other person named by 17 the court. The investigator, if any, shall file with the 18 court a written report of his findings and recommendations 19 and certify that the described investigation, if any, has been made since the granting of the interlocutory decree or 20 21 the date of placement for adoption. After hearing on said application, at which the petitioners and the child shall 22 appear, unless the presence of the child is waived by the 23 court, the court may enter a final decree of adoption if 24 satisfied that the adoption is for the best interests of the 25

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- 1 child. If the adoption is denied, an appropriate order shall
- 2 be made as to the future custody of the child."

3 <u>NEW SECTION.</u> Section 6. Extension of authority. Any 4 existing authority of the department of social and 5 rehabilitation services to make rules on the subject of the 6 provisions of this act is extended to the provisions of this 7 act.

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1 HOUSE BILL NO. 188 2 INTRODUCED BY BRADLEY, KITSELMAN, HAGER, MAZUREK 3 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS 4 5 RELATING TO THE ADOPTION OF CHILDREN TO CLARIFY THE 6 PROCEDURE FOR ADOPTION: AND AMENDING SECTIONS 40-8-109 AND 40-8-121 THROUGH 40-8-124, MCA." 7 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 9 10 Section 1. Section 40-8-109, MCA, is amended to read: 11 "40-8-109. Placement for adoption by parents. (1) No parent may make a placement of a child for adoption with an 12 individual who is not a stepparent or a member of the 13

child's extended family unless the parent files with the
district court for the county in which the prospective
adoptive parent or the parent making the placement resides:

17 (a) a notice of parental placement; and

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

21 (2) The notice of parental placement and the 22 relinquishment shall be filed prior to a parent's placement 23 of the child with an individual who intends to adopt the 24 ch.ld. The notice of parental placement shall contain the 25 following information:



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

4 (b) the name and address of each prospective adoptive5 parent;

6 (c) the name and address or expected date and place of
7 birth of the child; and

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

11 (3) Upon receipt of a notice of parental placement and 12 a relinquishment, the court shall require that the 13 department examine the child and conduct interviews with the 14 birth parents and prospective adoptive parents and report to 15 the court within 30 days but not earlier than 5 days after 16 the birth of the child. The report must state whether the 17 following requirements for placement have been met:

18 (a) that the decision to place was voluntarily made by19 the birth parents;

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

(c) that the birth parents, the prospective adoptive
parents, and their representatives have agreed in writing to
provide the court with sworn affidavits containing itemized

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statements of all fees charged or to be charged, expenses
 incurred or to be incurred, and payments received or to be
 received in connection with the proposed adoptive placement;
 (d) that the prospective adoptive parents have been
 provided a medical and social bistory of the child and birth

5 provided a medical and social history of the child and birth 6 parents; and

7 (e) that the proposed placement is in the child's best8 interest.

9 (4) Within 45 days of filing of the notice of parental
10 placement and the relinquishment, the court shall schedule a
11 hearing to consider the proposed placement.

12 (5) (a) At least 5 days' notice of the time and place 13 of the hearing must be given to the birth parents, the 14 prospective adoptive parents, any named guardian ad litem, 15 and the agency-or-person--who--conducted--the--investigation 16 under-subsection-(3) department.

17 (b) The hearing shall be closed to all persons except 18 those persons entitled to notice and their representatives 19 or counsel.

(6) If the court finds that all requirements for placement have been met, the court may issue an order or schedule a hearing for the purpose of terminating parental rights and granting temporary custody to the prospective adoptive parents. The prospective adoptive parents must file their petition to adopt within 30 days of the order. (7) If the court finds that all requirements for the
 adoptive placement have not been met, the court may issue
 any order appropriate to protect the child."

4 Section 2. Section 40-8-121, MCA, is amended to read:
5 "40-8-121. Petition for adoption. (1) A petition for
6 adoption shall be filed in duplicate, verified by the
7 petitioners, and shall specify:

8 (a) the full names, ages, and place of residence of
9 the petitioners and, if married, the place and date of the
10 marriage:

11 (b) when the petitioners acquired or intend to acquire 12 custody of the child and from what person or agency:

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

14 (d) the name used for the child in the proceeding and,

15 if a change in name is desired, the new name;

16 (e) that it is the desire of the petitioners that the 17 relationship of parent and child be established between them 18 and the child;

19 (f) a full description and statement of value of all20 property owned or possessed by the child;

21 (g) facts, if any, which excuse consent on the part of 22 a parent to the adoption.

(2) One copy of the petition shall be retained by the
 court. The other shall be sent to the department of-social
 and-rehabilitation-services-An-additional--copy-shall--be

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sent -- to-any or to the child placing agency participating in 1 2 the adoption proceeding.

3 (3) Any written consent required by this part may be attached to the petition or may be filed after the filing of 4 the petition, with the consent of the court. 5

6 (4) Except as provided in 40-8-109, a petition for adoption must be filed within 1 year of the time the child 7 was placed for adoption with the petitioner." 8

Section 3. Section 40-8-122, MCA, is amended to read; 9 "40-8-122. Investigation. (1) Upon the filing of a 10 11 petition for adoption, the court shall order an investigation to be made by the department or by a licensed 12 13 child placing agency or other person named by the court, 14 unless an investigation has been made prior to the filing as 15 provided in subsection (4). The investigation may be waived if the petitioner is a stepparent of the child or if one of 16 the petitioners is a member of the child's extended family. 17 The report of investigation shall be filed with the court by 18 the investigator at the time the petition is filed or within 19 30 days from the issuance of the order for investigation, 20 unless time therefor is extended by the court. The report of 21 the investigation shall state: 22

(a) whether the child is legally free for adoption; 23

(b) whether the proposed home is a suitable one for 24 25 the child:

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

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

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

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

(4) (a) If an investigation has been made within the 6 14

months immediately preceding the filing of the petition, the 15 court does not have to order a new investigation to be made. 16 (b) The report of the earlier investigation must 17 contain the information and recommendation specified by 18 subsections (1) and (3) and be filed with the petition for 19

20 adoption."

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21 Section 4. Section 40-8-123, MCA, is amended to read: "40-8-123. Summary decree. (1) If the child is a 22 member of the extended family of one of the petitioners or 23 is a stepchild of the petitioner or the court finds that the 24 best interests of the child will be furthered thereby, the 25

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court in its discretion, after examination of a report ordered or received pursuant to 40-8-122, may waive the entry of an interlocutory decree and the waiting period of 6 months provided in 40-8-124 and grant a final decree of adoption if satisfied that the adoption is in the best interests of the child.

7 (2) The department or the child placing agency may
8 recommend in the investigation report filed with the
9 petition for adoption that the court issue a summary decree
10 as provided for in subsection (1) if:

11 (a) a period of 6 months has elapsed since the 12 department or licensed child placing agency placed the child 13 for adoption; and

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 conducted an investigation during that period."

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23 (2) When a petition has been filed seeking the
24 adoption of a child, the court must cause service of process
25 to be made on the parent or parents of the child, except in

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those cases hereinafter provided, in the following manner:
(a) The court shall order a citation to issue to the
parent or parents in the name of the state of Montana and
under the seal of the court directing such parent or parents
to appear in court at a time to be fixed by the court and
show cause why the petition should not be granted.

7 (b) Such citation, together with a copy of the 8 petition for adoption, shall be personally served upon such 9 parent or parents. If, however, any such parent or parents 10 cannot be found within this state, service may be had by 11 publication of a copy of the citation in the manner provided 12 for the publication of summons by Rule 4, M.R.Civ.P.

13 (3) If, after completion of such service, any parent 14 so served does not appear, the court may act upon the 15 petition and the order of the court thereon shall be binding 16 upon all persons so served; provided that any such person 17 may appeal from the order in the manner and form provided 18 for appeals from a judgment in civil actions.

19 (4) The petitioners and the child shall appear at the20 hearing, unless the presence of the child is waived by the21 court.

(5) Service of process, as aforesaid, need not be made
on a parent who has consented in writing to an adoption or
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2 be made as to the future custody of the child."

3 <u>NEW SECTION.</u> Section 6. Extension of authority. Any 4 existing authority of the department of social and 5 rehabilitation services to make rules on the subject of the 6 provisions of this act is extended to the provisions of this 7 act.

-End-

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