### SENATE BILL NO. 214

## INTRODUCED BY MAZUREK

# BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

### IN THE SENATE

JANUARY 24, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 5, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 6, 1987	PRINTING REPORT.
FEBRUARY 9, 1987	SECOND READING, DO PASS.
FEBRUARY 10, 1987	ENGROSSING REPORT.
FEBRUARY 11, 1987	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.
	IN THE HOUSE
FEBRUARY 18, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
MARCH 13, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN.
MARCH 18, 1987	THIRD READING, CONCURRED IN. AYES, 90; NOES, 3.
	RETURNED TO SENATE.
	IN THE SENATE
MARCH 19, 1987	RECEIVED FROM HOUSE.

SENT TO ENROLLING.

1	BILL NO. 214
2	INTRODUCED BY ) / Agricl
3	BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
4	REHABILITATION SERVICES
5	

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE CONSENT OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES OR A LICENSED ADOPTION AGENCY BEFORE A PARENTAL RELINQUISHMENT MAY BE EXECUTED; AMENDING SECTION 40-6-135, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 40-6-135, MCA, is amended to read:

"40-6-135. 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 the department of social and rehabilitation services
or a licensed adoption agency. A parent may not execute a
relinquishment to the department or a licensed adoption
agency unless the department or the agency has agreed to
accept custody of the child until the child is adopted.

- (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 before any person authorized by law to administer oaths.
  - (4) If the relinquishment is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the relinquishment was executed in accordance with the laws of that state or country and may not proceed unless it finds that the relinquishment was so executed.
  - (5) Upon the filing of a properly and voluntarily executed relinquishment of a child by a parent or guardian, the court shall immediately issue an order terminating the rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated and if the department of social and rehabilitation services or a licensed adoption agency has agreed to accept custody of the child until the child is adopted, the court shall issue an order committing the child to the agency-of-the-state-of-Montana department or to the licensed adoption agency to which the relinquishment was given.

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

1

2

- 5 (7) Upon petition of a person who executed a 6 relinquishment and of the agency-of-the-state-of-Montana 7 department of social and rehabilitation services or the 8 licensed adoption agency to which the child was relinquished, the court with which the relinquishment was 9 10 filed may grant a hearing to consider whether the relinquishment should be revoked. A relinquishment may not 11 12 be revoked if the child has been placed for adoption. A verbatim record of testimony related to the petition shall 13 be made." 14
- NEW SECTION. Section 2. Applicability. This act applies to relinquishments executed on or after the effective date of this act.
- NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

1

1

2

3

9

10

11

15

24

#### APPROVED BY COMMITTEE ON JUDICIARY

March BILL NO. 214 INTRODUCED BY BY REQUEST OF THE DEPARTMENT OF SOCIAL AND 3 REHABILITATION SERVICES A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE CONSENT OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES OR A LICENSED ADOPTION AGENCY BEFORE A PARENTAL RELINQUISHMENT MAY BE EXECUTED: AMENDING SECTION 40-6-135, MCA: AND 9 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY 11 DATE." 12 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 14 Section 1. Section 40-6-135, MCA, is amended to read: 15 "40-6-135. Relinguishment of parental rights -- form, 16 execution, and revocation. (1) Any parent or guardian who 17 proposes to relinquish custody of a child for purposes of 18 placing the child for adoption may do so by executing a 19 relinquishment by which all parental rights to the child are voluntarily relinquished to an-agency--of--the--state-of 20 21 Montana the department of social and rehabilitation services 22 or a licensed adoption agency. A parent may not execute a 23 relinquishment to the department or a licensed adoption 24 agency unless the department or the agency has agreed to 25 accept custody of the child until the child is adopted.

relinquishment	shall	. be by	a se	parate	ì	nstrument	execu	ted
before a notar	y publ	lic.						
(3) If	the p	person	from	whom	а	relinquis	hment	is
remited is a	mombas	of an	y of t	he arm	ed	services o	r is	in

(2) Except as otherwise provided in this section, a

prison, the relinquishment may be executed and acknowledged before any person authorized by law to administer oaths. (4) If the relinquishment is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the relinguishment was executed in accordance with the laws of

that state or country and may not proceed unless it finds 12

that the relinquishment was so executed. 13 (5) Upon the filing of a properly and voluntarily 14

the court shall immediately issue an order terminating the 16 rights of that parent or quardian to that child. If the 17 rights of both parents, the surviving parent, or the

executed relinquishment of a child by a parent or quardian,

18 quardian have been terminated and if the department of 19

social and rehabilitation services or a licensed adoption 20

agency has agreed to accept custody of the child until the 21

child is adopted, the court shall issue an order committing 22

the child to the agency-of-the-state-of-Montana department 23

or to the licensed adoption agency to which the

relinguishment was given. 25

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

1 2

3

- 5 (7) Upon petition of a person who executed a 6 relinquishment and of the agency-of-the-state-of-Montana 7 department of social and rehabilitation services or the licensed adoption agency to which the child was 9 relinquished, the court with which the relinquishment was filed may grant a hearing to consider whether the 10 11 relinquishment should be revoked. A relinquishment may not be revoked if the child has been placed for adoption. A 12 13 verbatim record of testimony related to the petition shall be made." 14
- NEW SECTION. Section 2. Applicability. This act applies to relinquishments executed on or after the effective date of this act.
- 18 <u>NEW SECTION.</u> Section 3. Effective date. This act is
  19 effective on passage and approval.

٠..

24

25

3

10

11

12 13

14 15

16

17

18 19

20 21

22 23

24

1	BILL NO.
2	INTRODUCED BY MAGICEL
3	BY REQUEST OF THE DEPARTMENT OF SOCIAL AND
4	REHABILITATION SERVICES
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE CONSENT
7	OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES OR A
8	LICENSED ADOPTION AGENCY BEFORE A PARENTAL RELINQUISHMENT
9	MAY BE EXECUTED; AMENDING SECTION 40-6-135, MCA; AND
10	PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
11	DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
. 14	Section 1. Section 40-6-135, MCA, is amended to read:
15	"40-6-135. Relinquishment of parental rights form,
16	execution, and revocation. (1) Any parent or guardian who
17	proposes to relinquish custody of a child for purposes of
18	placing the child for adoption may do so by executing a
19	relinquishment by which all parental rights to the child are
20	voluntarily relinquished to an-agencyofthestate-of
21	Montana the department of social and rehabilitation services
22	or a licensed adoption agency. A parent may not execute a
23	relinguishment to the department or a licensed adoption

agency unless the department or the agency has agreed to

accept custody of the child until the child is adopted.

La - 1 1111 110 211

(2)	Except	as	otherwi	se provi	ded in	this	section,	а
relinquis	shment sh	all	be by a	separate	inst	rument	execute	ed
before a	notary r	oubli	c.					

- (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 before any person authorized by law to administer oaths.
- (4) If the relinquishment is executed in another state or country, the court having jurisdiction over the adoption proceeding in this state shall determine whether the relinquishment was executed in accordance with the laws of that state or country and may not proceed unless it finds that the relinquishment was so executed.
- executed relinquishment of a child by a parent or guardian, the court shall immediately issue an order terminating the rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated and if the department of social and rehabilitation services or a licensed adoption agency has agreed to accept custody of the child until the child is adopted, the court shall issue an order committing the child to the agency-of-the-state-of-Montana department or to the licensed adoption agency to which the relinquishment was given.

- 1 (6) Entry of an order terminating the rights of both
  2 parents pursuant to subsection (5) terminates the
  3 jurisdiction of the district court over the child in any
  4 divorce or separate maintenance action.
- 5 (7) Upon petition of a person who executed a 6 relinquishment and of the agency-of-the-state-of-Montana department of social and rehabilitation services or the 7 licensed adoption agency to which the child was 8 relinquished, the court with which the relinquishment was filed may grant a hearing to consider whether the 10 relinquishment should be revoked. A relinquishment may not 11 be revoked if the child has been placed for adoption. A 12 13 verbatim record of testimony related to the petition shall 14 be made."
- 15 <u>NEW SECTION.</u> Section 2. Applicability. This act
  16 applies to relinquishments executed on or after the
  17 effective date of this act.
  18 <u>NEW SECTION.</u> Section 3. Effective date. This act is
- 18 <u>NEW SECTION.</u> Section 3. Effective date. This act is
  19 effective on passage and approval.

50th Legislature

SB 0214/02

1

3

5

6

7

14

15

16

17

18

19

20

21

22

23

24 25 SB 0214/02

1	SENATE BILL NO. 214
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 REQUIRING THE CONSENT
7	OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES OR A
8	LICENSED ADOPTION AGENCY BEFORE A PARENTAL RELINQUISHMENT
9	MAY BE EXECUTED; AMENDING SECTION 40-6-135, MCA; AND
10	PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY
11	DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 40-6-135, MCA, is amended to read:
15	"40-6-135. Relinquishment of parental rights form,
16	execution, and revocation. (1) Any parent or guardian who
17	proposes to relinquish custody of a child for purposes of
18	placing the child for adoption may do so by executing a
19	relinquishment by which all parental rights to the child are
20	voluntarily relinquished to an-agencyofthestate-of
21	Montana the department of social and rehabilitation services
22	or a licensed adoption agency. A parent may not execute a
23	relinguishment to the department or a licensed adoption
24	agency unless the department or the agency has agreed to
25	accept custody of the child until the child is adopted.

- (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 before any person authorized by law to administer oaths.
- 8 (4) If the relinquishment is executed in another state
  9 or country, the court having jurisdiction over the adoption
  10 proceeding in this state shall determine whether the
  11 relinquishment was executed in accordance with the laws of
  12 that state or country and may not proceed unless it finds
  13 that the relinquishment was so executed.

(5) Upon the filing of a properly and voluntarily

executed relinquishment of a child by a parent or guardian, the court shall immediately issue an order terminating the rights of that parent or guardian to that child. If the rights of both parents, the surviving parent, or the guardian have been terminated and if the department of social and rehabilitation services or a licensed adoption agency has agreed to accept custody of the child until the child is adopted, the court shall issue an order committing the child to the agency-of-the-state-of-Montana department or to the licensed adoption agency to which the

-2-

relinquishment was given.

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

1

2

3

- (7) Upon petition of a person who executed a 5 relinquishment and of the agency-of-the-state-of-Montana department of social and rehabilitation services or the 7 licensed adoption agency to which the child was relinquished, the court with which the relinquishment was 9 10 filed may grant a hearing to consider whether the 11 relinquishment should be revoked. A relinquishment may not be revoked if the child has been placed for adoption. A 12 verbatim record of testimony related to the petition shall 13 be made." 14
- NEW SECTION. Section 2. Applicability. This ac applies to relinquishments executed on or after th effective date of this act.
- NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.