

1 *Senate* BILL NO. *214*
 2 INTRODUCED BY *J. Haglund*
 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 agency of the state of~~
 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.

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

4 (3) If the person from whom a relinquishment is
 5 required is a member of any of the armed services or is in
 6 prison, the relinquishment may be executed and acknowledged
 7 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.

14 (5) Upon the filing of a properly and voluntarily
 15 executed relinquishment of a child by a parent or guardian,
 16 the court shall immediately issue an order terminating the
 17 rights of that parent or guardian to that child. If the
 18 rights of both parents, the surviving parent, or the
 19 guardian have been terminated and if the department of
 20 social and rehabilitation services or a licensed adoption
 21 agency has agreed to accept custody of the child until the
 22 child is adopted, the court shall issue an order committing
 23 the child to the ~~agency of the state of Montana~~ department
 24 or to the licensed adoption agency to which the
 25 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~~
7 department of social and rehabilitation services or the
8 licensed adoption agency to which the child was
9 relinquished, the court with which the relinquishment was
10 filed may grant a hearing to consider whether the
11 relinquishment should be revoked. A relinquishment may not
12 be revoked if the child has been placed for adoption. A
13 verbatim record of testimony related to the petition shall
14 be made."

15 NEW SECTION. Section 2. Applicability. This act
16 applies to relinquishments executed on or after the
17 effective date of this act.

18 NEW SECTION. Section 3. Effective date. This act is
19 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *Senate* BILL NO. *214*
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