

LEGISLATIVE BILL 301

Approved by the Governor April 7, 1988

Introduced by Conway, 17

AN ACT relating to adoption; to amend section 43-107, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, section 43-109, Revised Statutes Supplement, 1986, as amended by section 2, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, and section 6, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988; to state intent; to define terms; to authorize agreements relating to the exchange of information in certain adoptions; to provide powers and duties for the Department of Social Services; to provide for enforcement of such agreements; to change provisions relating to time of filing medical histories and nonconsent forms as prescribed; to provide operative dates; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds that there are children in temporary foster care situations who would benefit from the stability of adoption. It is the intent of the Legislature that such situations be accommodated through the use of adoptions involving exchange-of-information contracts between the department and the adoptive or biological parent or parents.

Sec. 2. For purposes of sections 1 to 6 of this act, unless the context otherwise requires:

(1) Adoption involving exchange of information shall mean an adoption of a child in which one or both of the child's biological parents contract with the department for information about the child obtained through his or her adoptive family;

(2) Exchange-of-information contract shall mean a two-year, renewable obligation, voluntarily agreed to and signed by both the adoptive and biological parent or parents as well as the department; and

(3) Department shall mean the Department of Social Services.

Sec. 3. The department may, when planning the

placement of a child for adoption, determine whether the best interests of such child might be served by placing the child in an adoption involving exchange of information.

Sec. 4. When the department determines that an adoption involving exchange of information would serve a child's best interests, it may enter into agreements with the child's proposed adoptive parent or parents for the exchange of information. The nature of the information promised to be provided shall be specified in an exchange-of-information contract and may include, but shall not be limited to, letters by the adoptive parent or parents at specified intervals providing information regarding the child's development or photographs of the child at specified intervals. Any agreement shall provide that the biological parent or parents keep the department informed of any change in address or phone number and may include provision for communication by the biological parent or parents indirectly through the department or directly to the adoptive parent or parents. Nothing in sections 1 to 6 of this act shall be interpreted to preclude or allow visitation between the biological parent or parents and the child.

Sec. 5. When, after placement of a child for adoption, it is determined by the department, in consultation with the adoptive parent or parents, that certain or all exchanges of information are no longer in the best interests of the child, the department may enter into an agreement with the biological parent or parents to alter the original contract made between the department and the biological parent or parents.

Sec. 6. The existence of any agreement or agreements of the kind specified in section 4 of this act shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a county court of the State of Nebraska. The violation of the terms of any agreement or agreements of the kind specified in section 4 of this act shall not operate to impair the validity of any relinquishment or any decree of adoption entered by a court of competent jurisdiction. The parties to an exchange-of-information contract shall have the authority to bring suit in a court of competent jurisdiction for the enforcement of any agreement entered into pursuant to section 4 of this act.

Sec. 7. That section 43-107, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 372, Ninetieth Legislature, Second

Session, 1988, be amended to read as follows:

43-107. (1) Upon the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the Department of Social Services or any child placement agency licensed by the department to examine into the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the Department of Social Services or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(2) Upon the filing of a petition for adoption, the county judge shall require that a complete medical history be provided on the child and, if available, on the biological mother and father unless the child is foreign born or was abandoned. The medical history or histories shall be made part of the court record and a copy of the medical history or histories shall be forwarded by the county court to the Bureau of Vital Statistics of the Department of Health. This subsection shall only apply to petitions filed when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 8. That section 43-109, Revised Statutes Supplement, 1986, as amended by section 2, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, be amended to read as follows:

43-109. (1) If, upon the hearing, the court finds that such adoption is for the best interests of such minor child or such adult child of the adopting person's spouse, a decree of adoption shall be entered. No decree of adoption shall be entered unless (a) it appears that the child has resided with the person or persons petitioning for such adoption for at least six months next preceding the entering of the decree of adoption, except that such residency requirement shall not apply in an adoption of an adult child of the adopting person's spouse, (b) the medical histories required by subsection (2) of section 43-107 have been made a part of the court record and have been forwarded by the county court to the Bureau of Vital Statistics of

the Department of Health, and (c) the court record includes an affidavit or affidavits signed by the relinquishing biological parent, or parents if both are available, in which it is affirmed that, pursuant to section 3 of this act, prior to the relinquishment of the child for adoption, the relinquishing parent was, or parents if both are available were, (i) presented a copy or copies of the nonconsent form provided for in section 11 of this act and (ii) given an explanation of the effects of filing or not filing the nonconsent form. Subdivisions (b) and (c) of this subsection shall only apply ~~to~~ when the relinquishment or consent for an adoption is given ~~decrees of adoption entered on or~~ after September 1, 1988.

(2) If the adopted child was born out of wedlock, that fact shall not appear in the decree of adoption.

(3) The court may decree such change of name for the adopted child as the petitioner or petitioners may request.

Sec. 9. That section 6, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, be amended to read as follows:

Sec. 6. Sections 3 and 7 to 22 of this act shall provide the procedures for gaining access to information concerning an adopted person persons placed for adoption when a relinquishment or consent for an adoption is given on or after September 1, 1988. Sections 43-119 to 43-142 shall remain in effect for persons placed for adoption a relinquishment or consent for an adoption which is given prior to September 1, 1988. Except as otherwise provided in subsection (2) of section 43-107 and subdivisions (1)(b) and (1)(c) of section 43-109, sections 43-101 to 43-118, 43-143 to 43-146, 71-626, 71-626.01, and 71-627.02 shall apply to all adoptions.

Sec. 10. Sections 7, 8, 9, and 11 of this act shall become operative on September 1, 1988. The other sections of this act shall become operative on their effective date.

Sec. 11. That original section 43-107, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, section 43-109, Revised Statutes Supplement, 1986, as amended by section 2, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, and section 6, Legislative Bill 372, Ninetieth Legislature, Second Session, 1988, are repealed.