
SUBSTITUTE SENATE BILL 5299

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Children & Family Services (originally sponsored by Senator L. Smith).

Read first time February 25, 1991.

1 AN ACT Relating to adoption; and amending RCW 26.33.040, 26.33.160,
2 26.33.190, 26.33.350, 26.33.390, and 26.33.400.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 26.33.040 and 1984 c 155 s 4 are each amended to read
5 as follows:

6 (1) Every petition filed in proceedings under this chapter shall
7 contain a statement alleging whether the Indian Child Welfare Act, 25
8 U.S.C. Sec. 1901 et seq., applies to the proceeding. Every order or
9 decree entered in any proceeding under this chapter shall contain a
10 finding that the Indian Child Welfare Act does or does not apply. In
11 proceedings under this chapter, the adoption facilitator shall file a
12 sworn statement documenting efforts to determine whether the Indian
13 Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies.

14 (2) Every petition filed in proceedings under this chapter shall
15 contain a statement alleging whether the Soldiers and Sailors Civil

1 Relief Act of 1940, 50 U.S.C. Sec. 501 et seq. applies to the
2 proceeding. Every order or decree entered in any proceeding under this
3 chapter shall contain a finding that the Soldiers and Sailors Civil
4 Relief Act of 1940 does or does not apply.

5 **Sec. 2.** RCW 26.33.160 and 1990 c 146 s 2 are each amended to read
6 as follows:

7 (1) Except as otherwise provided in RCW 26.33.170, consent to an
8 adoption shall be required of the following if applicable:

9 (a) The adoptee, if fourteen years of age or older;

10 (b) The parents and any alleged father of an adoptee under eighteen
11 years of age;

12 (c) An agency or the department to whom the adoptee has been
13 relinquished pursuant to RCW 26.33.080; and

14 (d) The legal guardian of the adoptee.

15 (2) Except as otherwise provided in subsection (4)(~~(g)~~) (h) of
16 this section, consent to adoption is revocable by the consenting party
17 at any time before the consent is approved by the court. The
18 revocation may be made in either of the following ways:

19 (a) Written revocation may be delivered or mailed to the clerk of
20 the court before approval; or

21 (b) Written revocation may be delivered or mailed to the clerk of
22 the court after approval, but only if it is delivered or mailed within
23 forty-eight hours after a prior notice of revocation that was given
24 within forty-eight hours after the birth of the child. The prior
25 notice of revocation shall be given to the agency or person who sought
26 the consent and may be either oral or written.

27 (3) Except as provided in subsection(~~(f)~~)s (2)(b) and (4)(~~(g)~~)
28 (h) of this section and in this subsection, a consent to adoption may
29 not be revoked after it has been approved by the court. Within one

1 year after approval, a consent may be revoked for fraud or duress
2 practiced by the person, department, or agency requesting the consent,
3 or for lack of mental competency on the part of the person giving the
4 consent at the time the consent was given. A written consent to
5 adoption may not be revoked more than one year after it is approved by
6 the court.

7 (4) Except as provided in (~~(g)~~) (h) of this subsection, the
8 written consent to adoption shall be signed under penalty of perjury
9 and shall state that:

10 (a) It is given subject to approval of the court;

11 (b) It has no force or effect until approved by the court;

12 (c) The birth parent is or is not of Native American or Alaska
13 native ancestry;

14 (d) The consent will not be presented to the court until forty-
15 eight hours after it is signed or forty-eight hours after the birth of
16 the child, whichever occurs later;

17 (~~(d)~~) (e) It is revocable by the consenting party at any time
18 before its approval by the court. It may be revoked in either of the
19 following ways:

20 (i) Written revocation may be delivered or mailed to the clerk of
21 the court before approval of the consent by the court; or

22 (ii) Written revocation may be delivered or mailed to the clerk of
23 the court after approval, but only if it is delivered or mailed within
24 forty-eight hours after a prior notice of revocation that was given
25 within forty-eight hours after the birth of the child. The prior
26 notice of revocation shall be given to the agency or person who sought
27 the consent and may be either oral or written;

28 (~~(e)~~) (f) The address of the clerk of court where the consent
29 will be presented is included;

1 (~~(f)~~) (g) Except as provided in (~~(g)~~) (h) of this subsection,
2 after it has been approved by the court, the consent is not revocable
3 except for fraud or duress practiced by the person, department, or
4 agency requesting the consent or for lack of mental competency on the
5 part of the person giving the consent at the time the consent was
6 given. A written consent to adoption may not be revoked more than one
7 year after it is approved by the court;

8 (~~(g)~~) (h) In the case of a consent to an adoption of an Indian
9 child, no consent shall be valid unless the consent is executed in
10 writing more than ten days after the birth of the child and unless the
11 consent is recorded before a court of competent jurisdiction pursuant
12 to 25 U.S.C. Sec. 1913(a). Consent may be withdrawn for any reason at
13 any time prior to the entry of the final decree of adoption. Consent
14 may be withdrawn for fraud or duress within two years of the entry of
15 the final decree of adoption. Revocation of the consent prior to a
16 final decree of adoption, may be delivered or mailed to the clerk of
17 the court or made orally to the court which shall certify such
18 revocation. Revocation of the consent is effective if received by the
19 clerk of the court prior to the entry of the final decree of adoption
20 or made orally to the court at any time prior to the entry of the final
21 decree of adoption. Upon withdrawal of consent, the court shall return
22 the child to the parent unless the child has been taken into custody
23 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant
24 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130;
25 and

26 (~~(h)~~) (i) The following statement has been read before signing
27 the consent:

28 I understand that my decision to relinquish the child is an extremely
29 important one, that the legal effect of this relinquishment will be to

1 take from me all legal rights and obligations with respect to the
2 child, and that an order permanently terminating all of my parental
3 rights to the child will be entered. I also understand that there are
4 social services and counseling services available in the community, and
5 that there may be financial assistance available through state and
6 local governmental agencies.

7 (5) A written consent to adoption which meets all the requirements
8 of this chapter but which does not name or otherwise identify the
9 adopting parent is valid if it contains a statement that it is
10 voluntarily executed without disclosure of the name or other
11 identification of the adopting parent.

12 (6) There must be an impartial, competent witness to the consent of
13 the parent or alleged father. The witness must be at least eighteen
14 years of age and selected by the parent or alleged father. The consent
15 document shall contain a statement identifying by name, address, and
16 relationship the witness selected by the parent or alleged father.

17 **Sec. 3.** RCW 26.33.190 and 1990 c 146 s 3 are each amended to read
18 as follows:

19 (1) Any person may at any time request an agency, the department,
20 an individual approved by the court, or a qualified salaried court
21 employee to prepare a preplacement report. A certificate signed under
22 penalty of perjury by the person preparing the report specifying his or
23 her qualifications as required in this chapter shall be attached to or
24 filed with each preplacement report and shall include a statement of
25 training or experience that qualifies the person preparing the report
26 to discuss relevant adoption issues. A person may have more than one
27 preplacement report prepared. All preplacement reports shall be filed
28 with the court in which the petition for adoption is filed.

1 (2) The preplacement report shall be a written document setting
2 forth all relevant information relating to the fitness of the person
3 requesting the report as an adoptive parent. The report shall be based
4 on a study which shall include an investigation of the home
5 environment, family life, health, facilities, and resources of the
6 person requesting the report. The report shall include a list of the
7 sources of information on which the report is based. The report shall
8 include a recommendation as to the fitness of the person requesting the
9 report to be an adoptive parent. The report shall also verify that the
10 following issues were discussed with the prospective adoptive parents:

11 (a) The concept of adoption as a lifelong developmental process and
12 commitment;

13 (b) The potential for the child to have feelings of identity
14 confusion and loss regarding separation from the birth parents;

15 (c) Disclosure of the fact of adoption to the child;

16 (d) The child's possible questions about birth parents and
17 relatives; and

18 (e) The relevance of the child's racial, ethnic, and cultural
19 heritage.

20 (3) All preplacement reports shall include an investigation of the
21 conviction record, pending charges, or disciplinary board final
22 decisions of prospective adoptive parents. The investigation shall
23 include an examination of state and national criminal identification
24 data provided by ~~((the))~~ the Washington state patrol criminal
25 identification system as described in chapter 43.43 RCW.

26 (4) An agency, the department, or a court approved individual may
27 charge a reasonable fee based on the time spent in conducting the study
28 and preparing the preplacement report. The court may set a reasonable
29 fee for conducting the study and preparing the report when a court
30 employee has prepared the report. An agency, the department, a court

1 approved individual, or the court may reduce or waive the fee if the
2 financial condition of the person requesting the report so warrants. An
3 agency's, the department's, or court approved individual's, fee is
4 subject to review by the court upon request of the person requesting
5 the report.

6 (5) The person requesting the report shall designate to the agency,
7 the department, the court approved individual, or the court in writing
8 the county in which the preplacement report is to be filed. If the
9 person requesting the report has not filed a petition for adoption, the
10 report shall be indexed in the name of the person requesting the report
11 and a cause number shall be assigned. A fee shall not be charged for
12 filing the report. The applicable filing fee may be charged at the
13 time a petition governed by this chapter is filed. Any subsequent
14 preplacement reports shall be filed together with the original report.

15 (6) A copy of the completed preplacement report shall be delivered
16 to the person requesting the report.

17 (7) A person may request that a report not be completed. A
18 reasonable fee may be charged for the value of work done.

19 **Sec. 4.** RCW 26.33.350 and 1990 c 146 s 6 are each amended to read
20 as follows:

21 (1) Every person, firm, society, association, or corporation
22 receiving, securing a home for, or otherwise caring for a minor child
23 shall transmit to the prospective adopting parent prior to placement
24 and shall make available to all persons with whom a child has been
25 placed by adoption a complete medical report containing all available
26 information concerning the mental, physical, and sensory handicaps of
27 the child. The report shall not reveal the identity of the natural
28 parent of the child but shall include any available mental or physical
29 health history of the natural parent that needs to be known by the

1 adoptive parent to facilitate proper health care for the child or that
2 will assist the adoptive parent in maximizing the developmental
3 potential of the child.

4 (2) Where available, the information provided shall include:

5 (a) A review of the birth family's and the child's previous medical
6 history, if available, including the child's x-rays, examinations,
7 hospitalizations, and immunizations. After July 1, 1992, medical
8 histories shall be given on a standardized reporting form developed by
9 the department;

10 (b) A physical exam of the child by a licensed physician with
11 appropriate laboratory tests and x-rays;

12 (c) A referral to a specialist if indicated; and

13 (d) A written copy of the evaluation with recommendations to the
14 adoptive family receiving the report.

15 **Sec. 5.** RCW 26.33.390 and 1990 c 146 s 7 are each amended to read
16 as follows:

17 (1) All persons adopting a child through the department shall
18 receive written information on the department's adoption-related
19 services including, but not limited to, adoption support, family
20 reconciliation services, archived records, mental health, and
21 developmental disabilities.

22 (2) Any person adopting a child shall receive from the adoption
23 facilitator written information on adoption-related services. This
24 information may be that published by the department or any other social
25 service provider(~~(s)~~) and shall include information (~~(s)~~) about how to
26 find and evaluate appropriate adoption therapists, and may include
27 other resources for adoption-related issues.

28 (3) Any person involved in providing adoption-related services
29 shall respond to requests for written information by providing

1 materials explaining adoption procedures, practices, policies, fees,
2 and services.

3 **Sec. 6.** RCW 26.33.400 and 1989 c 255 s 1 are each amended to read
4 as follows:

5 (1) Unless the context clearly requires otherwise, "advertisement"
6 means communication by newspaper, radio, television, handbills,
7 placards or other print, broadcast, or the electronic medium. This
8 definition applies throughout this section.

9 (2) No person or entity shall cause to be published for
10 circulation, or broadcast on a radio or television station, within the
11 geographic borders of this state, an advertisement of a child or
12 children offered or wanted for adoption, or shall hold himself or
13 herself out through such advertisement as having the ability to place,
14 locate, dispose, or receive a child or children for adoption unless
15 such person or entity is:

16 (a) A duly authorized agent, contractee, or employee of the
17 department or a children's agency or institution licensed by the
18 department to care for and place children;

19 (b) ~~((An attorney licensed to practice in Washington state; or~~
20 ~~(e)))~~ A person who has a completed preplacement report as set forth
21 in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable
22 recommendation as to the fitness of the person to be an adoptive
23 parent, or such person's duly authorized uncompensated agent, or ~~((an))~~
24 such person's attorney who is licensed to practice in the state.
25 Verification of compliance with the requirements of this section shall
26 consist of a written declaration by the person or entity who prepared
27 the preplacement report.

1 Nothing in this section prohibits an attorney licensed to practice
2 in Washington state from advertising his or her availability to
3 practice or provide services related to the adoption of children.

4 (3) (~~Any such person or entity who places or causes such~~
5 ~~advertisement as prohibited in subsection (2) of this section shall be~~
6 ~~guilty of a misdemeanor.)) A violation of subsection (2) of this
7 section is a matter affecting the public interest for the purpose of
8 applying chapter 19.86 RCW. A violation of subsection (2) of this
9 section is not reasonable in relation to the development and
10 preservation of business. A violation of subsection (2) of this
11 section constitutes an unfair or deceptive act or practice in trade or
12 commerce for the purpose of applying chapter 19.86 RCW.~~