
SENATE BILL 5299

State of Washington

52nd Legislature

1991 Regular Session

By Senator L. Smith.

Read first time January 28, 1991. Referred to Committee on Children & Family Services.

1 AN ACT Relating to adoption; and amending RCW 26.33.160, 26.33.190,
2 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 26.33.160 and 1990 c 146 s 2 are each amended to read
5 as follows:

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

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

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

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

13 (d) The legal guardian of the adoptee.

14 (2) Except as otherwise provided in subsection (4)(g) of this
15 section, consent to adoption is revocable by the consenting party at

1 any time before the consent is approved by the court. The revocation
2 may be made in either of the following ways:

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

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

11 (3) Except as provided in subsection ~~((1s1))~~ (2)(b) and (4)(g) of
12 this section and in this subsection, a consent to adoption may not be
13 revoked after it has been approved by the court. Within one year after
14 approval, a consent may be revoked for fraud or duress practiced by the
15 person, department, or agency requesting the consent, or for lack of
16 mental competency on the part of the person giving the consent at the
17 time the consent was given. A written consent to adoption may not be
18 revoked more than one year after it is approved by the court.

19 (4) Except as provided in (g) of this subsection, the written
20 consent to adoption shall be signed under penalty of perjury and shall
21 state that:

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

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

24 (c) The consent will not be presented to the court until forty-
25 eight hours after it is signed or forty-eight hours after the birth of
26 the child, whichever occurs later;

27 (d) It is revocable by the consenting party at any time before its
28 approval by the court. It may be revoked in either of the following
29 ways:

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

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

9 (e) The address of the clerk of court where the consent will be
10 presented is included;

11 (f) Except as provided in (g) of this subsection, after it has been
12 approved by the court, the consent is not revocable except for fraud or
13 duress practiced by the person, department, or agency requesting the
14 consent or for lack of mental competency on the part of the person
15 giving the consent at the time the consent was given. A written
16 consent to adoption may not be revoked more than one year after it is
17 approved by the court;

18 (g) In the case of a consent to an adoption of an Indian child, no
19 consent shall be valid unless the consent is executed in writing more
20 than ten days after the birth of the child and unless the consent is
21 recorded before a court of competent jurisdiction pursuant to 25 U.S.C.
22 Sec. 1913(a). The consent form shall contain an affirmative statement
23 by the birth parent that the child is of Native American or Alaska
24 native ancestry. The person facilitating the adoption shall submit a
25 sworn statement documenting efforts to determine whether the Indian
26 Child Welfare Act, 25 U.S.C. Sec. 1901 et seq., applies. Consent may
27 be withdrawn for any reason at any time prior to the entry of the final
28 decree of adoption. Consent may be withdrawn for fraud or duress within
29 two years of the entry of the final decree of adoption. Revocation of
30 the consent prior to a final decree of adoption, may be delivered or

1 mailed to the clerk of the court or made orally to the court which
2 shall certify such revocation. Revocation of the consent is effective
3 if received by the clerk of the court prior to the entry of the final
4 decree of adoption or made orally to the court at any time prior to the
5 entry of the final decree of adoption. Upon withdrawal of consent, the
6 court shall return the child to the parent unless the child has been
7 taken into custody pursuant to RCW 13.34.050 or 26.44.050, placed in
8 shelter care pursuant to RCW 13.34.060, or placed in foster care
9 pursuant to RCW 13.34.130; and

10 (h) The following statement has been read before signing the
11 consent:

12 I understand that my decision to relinquish the child is an extremely
13 important one, that the legal effect of this relinquishment will be to
14 take from me all legal rights and obligations with respect to the
15 child, and that an order permanently terminating all of my parental
16 rights to the child will be entered. I also understand that there are
17 social services and counseling services available in the community, and
18 that there may be financial assistance available through state and
19 local governmental agencies.

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

25 (6) The consent of the parents and any alleged father shall be
26 witnessed by a person who is independent and free of influence in the
27 adoption action. The witness shall attest that the consent is

1 voluntary and the birth parent or alleged father is aware of his or her
2 rights under this chapter.

3 **Sec. 2.** RCW 26.33.190 and 1990 c 146 s 3 are each amended to read
4 as follows:

5 (1) Any person may at any time request an agency, the department,
6 an individual approved by the court, or a qualified salaried court
7 employee to prepare a preplacement report. A certificate signed under
8 penalty of perjury by the person preparing the report specifying his or
9 her qualifications as required in this chapter shall be attached to or
10 filed with each preplacement report. The specified qualifications
11 shall include documentation of the training or experience that
12 qualifies the person preparing the report to discuss relevant adoption
13 issues. A person may have more than one preplacement report prepared.
14 All preplacement reports shall be filed with the court in which the
15 petition for adoption is filed.

16 (2) The preplacement report shall be a written document setting
17 forth all relevant information relating to the fitness of the person
18 requesting the report as an adoptive parent. The report shall be based
19 on a study which shall include an investigation of the home
20 environment, family life, health, facilities, and resources of the
21 person requesting the report. The report shall include a list of the
22 sources of information on which the report is based. The report shall
23 include a recommendation as to the fitness of the person requesting the
24 report to be an adoptive parent. The report shall also verify that the
25 following issues were discussed with the prospective adoptive parents:

- 26 (a) The concept of adoption as a lifelong commitment;
27 (b) The potential for the child to have feelings of identity
28 confusion and loss regarding separation from the birth parents;
29 (c) Disclosure of the fact of adoption to the child;

1 (d) The child's possible questions about birth parents and
2 relatives; and

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

5 (3) All preplacement reports shall include an investigation of the
6 conviction record, pending charges, or disciplinary board final
7 decisions of prospective adoptive parents. The investigation shall
8 include an examination of state and national criminal identification
9 data provided by ~~((the))~~ the Washington state patrol criminal
10 identification system as described in chapter 43.43 RCW.

11 (4) An agency, the department, or a court approved individual may
12 charge a reasonable fee based on the time spent in conducting the study
13 and preparing the preplacement report. The court may set a reasonable
14 fee for conducting the study and preparing the report when a court
15 employee has prepared the report. An agency, the department, a court
16 approved individual, or the court may reduce or waive the fee if the
17 financial condition of the person requesting the report so warrants. An
18 agency's, the department's, or court approved individual's, fee is
19 subject to review by the court upon request of the person requesting
20 the report.

21 (5) The person requesting the report shall designate to the agency,
22 the department, the court approved individual, or the court in writing
23 the county in which the preplacement report is to be filed. If the
24 person requesting the report has not filed a petition for adoption, the
25 report shall be indexed in the name of the person requesting the report
26 and a cause number shall be assigned. A fee shall not be charged for
27 filing the report. The applicable filing fee may be charged at the
28 time a petition governed by this chapter is filed. Any subsequent
29 preplacement reports shall be filed together with the original report.

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

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

5 **Sec. 3.** RCW 26.33.350 and 1990 c 146 s 6 are each amended to read
6 as follows:

7 (1) Every person, firm, society, association, or corporation
8 receiving, securing a home for, or otherwise caring for a minor child
9 shall transmit to the prospective adopting parent prior to placement
10 and shall make available to all persons with whom a child has been
11 placed by adoption a complete medical report containing all available
12 information concerning the mental, physical, and sensory handicaps of
13 the child. The report shall not reveal the identity of the natural
14 parent of the child but shall include any available mental or physical
15 health history of the natural parent that needs to be known by the
16 adoptive parent to facilitate proper health care for the child or that
17 will assist the adoptive parent in maximizing the developmental
18 potential of the child.

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

20 (a) A review of the birth family's and the child's previous medical
21 history, if available, including the child's x-rays, examinations,
22 hospitalizations, and immunizations. After July 1, 1992, the child's
23 medical history shall be given on a standardized reporting form
24 developed by the department;

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

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

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

1 **Sec. 4.** RCW 26.33.390 and 1990 c 146 s 7 are each amended to read
2 as follows:

3 (1) All persons adopting a child through the department shall
4 receive written information on the department's adoption-related
5 services including, but not limited to, adoption support, family
6 reconciliation services, archived records, mental health, and
7 developmental disabilities.

8 (2) Any person adopting a child shall receive from the adoption
9 facilitator written information on adoption-related services. This
10 information may be that published by the department or any other social
11 service provider(~~(7)~~). The information shall ((include information
12 ~~on)) specify~~ how to find and evaluate appropriate adoption therapists,
13 and may include other resources for adoption-related issues. Upon
14 request, the adoption facilitator shall provide written information
15 about adoption procedures, practices, policies, fees, and services.

16 **Sec. 5.** RCW 26.33.400 and 1989 c 255 s 1 are each amended to read
17 as follows:

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

22 (2) No person or entity shall cause to be published for
23 circulation, or broadcast on a radio or television station, within the
24 geographic borders of this state, an advertisement of a child or
25 children offered or wanted for adoption, or shall hold himself or
26 herself out through such advertisement as having the ability to place,
27 locate, dispose, or receive a child or children for adoption unless
28 such person or entity is:

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

4 (b) An attorney licensed to practice in Washington state; or

5 (c) A person who has a completed preplacement report as set forth
6 in RCW 26.33.190 (1) and (2) or chapter 26.34 RCW with a favorable
7 recommendation as to the fitness of the person to be an adoptive
8 parent, or such person's duly authorized uncompensated agent, or an
9 attorney who is licensed to practice in the state. Verification of
10 compliance with the requirements of this section shall consist of a
11 written declaration by the person or entity who prepared the
12 preplacement report.

13 (3) (~~Any such person or entity who places or causes such~~
14 ~~advertisement as prohibited in subsection (2) of this section shall be~~
15 ~~guilty of a misdemeanor.)) The advertisement of children for adoption
16 in violation of subsection (2) of this section is a matter affecting
17 the public interest for the purpose of applying chapter 19.86 RCW. The
18 advertisement of children for adoption in violation of subsection (2)
19 of this section is not reasonable in relation to the development and
20 preservation of business. A violation of subsection (2) of this
21 section constitutes an unfair or deceptive act or practice in trade or
22 commerce for the purpose of applying chapter 19.86 RCW.~~