

members and includes six nurses and one public member. In section five, subsection (1)(b)(i) through subsection (1)(b)(iv), the act details at considerable length the qualifications required of individual nurse members of the board. Without these subsections, there remain the requirements that nurse members be licensed under the act, have five years of practice and have actively practiced within two years of appointment. The further detailing of requirements in subsections (1)(b)(i) through (1)(b)(iv) of section five could unduly restrict representation on the board and therefore not serve the best interests of the people or the profession. Accordingly, I have determined to veto that portion of section five.

Veto
Message

With the exception of subsections (1)(b)(i) through (1)(b)(iv) of section five, I have approved Senate Bill No. 2213."

CHAPTER 134

[Senate Bill No. 2459]

DOMESTIC RELATIONS--FILIIATION PROCEEDINGS--
CUSTODY--NOTICE--CONSENT

AN ACT Relating to domestic relations; amending section 19, chapter 203, Laws of 1919 and RCW 26.24.190; amending section 3, chapter 291, Laws of 1955 and RCW 26.32.030; amending section 4, chapter 291, Laws of 1955 and RCW 26.32.040; amending section 5, chapter 291, Laws of 1955 and RCW 26.32.050; amending section 8, chapter 291, Laws of 1955 and RCW 26.32.080; amending section 1, chapter 49, Laws of 1903 and RCW 26.37.010; adding new sections to chapter 291, Laws of 1955 and to chapter 26.32 RCW; adding a new section to chapter 49, Laws of 1903 and to chapter 26.37 RCW; adding a new section to chapter 26.28 RCW; and declaring an emergency.

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

Section 1. Section 19, chapter 203, Laws of 1919 and RCW 26.24.190 are each amended to read as follows:

((If the mother be a suitable person she shall be awarded the custody and control of said child; if she be not a suitable person, the court may deliver)) In any filiation proceeding where the accused is found to be the father of the child, the court shall include in its judgment an award of custody of the child to that parent who is the more fit from the standpoint of furthering the child's welfare;

PROVIDED, That if the court finds both parents unfit to have custody of the child, then the court shall provide for the care and custody of said child ((to)) by any reputable person, ((including the accused, charitable or state institution)) appropriate private agency licensed pursuant to chapter 74.15 RCW, or appropriate public agency. Such order and judgment may further provide, in the discretion of the court, that the surname of the ((accused)) child shall henceforth be ((the lawful surname of such child)) that parent's surname which the court finds would be in the best interest of the child.

Sec. 2. Section 3, chapter 291, Laws of 1955 and RCW 26.32.030 are each amended to read as follows:

Written consent to such adoption must be filed prior to a hearing on the petition, as follows:

(1) By the person to be adopted, if such person is fourteen years of age or older, but the filing of such consent shall not obviate the necessity of securing any other consent herein required;

(2) If the person to be adopted is of legitimate birth or legitimized thereafter, and a minor, then by each of his living parents, except as hereinafter provided;

(3) If the person to be adopted is illegitimate and a minor, then by his mother and father, if living, except as ((hereinafter)) provided in this 1973 amendatory act;

(4) If a legal guardian has been appointed for the person of the child, then by such guardian;

(5) If the person to be adopted is a minor and has been permanently committed upon due notice to his parents by any court of general jurisdiction to an approved agency, then by such approved agency, in which event neither notice to nor consent by its parents in the adoption proceeding shall be necessary: PROVIDED, That if the approved agency refuses to consent to the adoption, the court, in its discretion, may order that such consent be dispensed with.

Sec. 3. Section 4, chapter 291, Law of 1955 and RCW 26.32.040 are each amended to read as follows:

No consent for the adoption of a minor shall be required as follows:

(1) From a parent deprived of civil rights when in a hearing for that purpose, as provided in RCW 26.32.050, the court finds that the circumstances surrounding the loss of said parent's civil rights were of such a nature that the welfare of the child would be best served by a permanent deprivation of parental rights;

(2) From a parent who has been deprived of the custody of the child by a court of competent jurisdiction, after notice: PROVIDED, That a decree in an action for divorce, separate maintenance, or annulment, which grants to a parent any right of custody, control, or visitation of a minor child, or requires of such parent the payment

of support money for such child, shall not constitute such deprivation of custody;

(3) From a parent who, more than one year prior to filing of a petition hereunder, has been adjudged to be mentally ill or otherwise mentally incompetent, and who has not thereafter been restored to competency by the court making such adjudication, and the court at a hearing called for such purpose, as provided in RCW 26.32.050, finds that the best interests of the child will be served by a permanent deprivation of custody;

(4) From a parent who has been found by a court of competent jurisdiction, upon notice as herein provided to such parent, to have deserted or abandoned such child under circumstances showing a wilful substantial lack of regard for parental obligations;

(5) From a ~~((father))~~ parent of an illegitimate child who prior to entry of the interlocutory decree of adoption has not contested the proposed adoption after having been provided with notice of a hearing on an adoption petition pursuant to the notice provisions of section 6 of this 1973 amendatory act.

(6) From a parent who has surrendered the child pursuant to section 7 of this 1973 amendatory act.

Sec. 4. Section 5, chapter 291, Laws of 1955 and RCW 26.32.050 are each amended to read as follows:

If the court in an adoption proceeding, after a hearing for that purpose upon notice thereof as hereinafter provided having been given to a parent, finds any of the conditions set forth in RCW 26.32.040 to be a fact as to the parent, the court may decree that consent of such parent shall not be required prior to adoption(**PROVIDED, That the father of an illegitimate child shall not be entitled to notice of such hearing**).

Sec. 5. Section 8, chapter 291, Laws of 1955 and RCW 26.32.080 are each amended to read as follows:

(1) The court shall direct notice of any hearing under RCW 26.32.050 to be given to any nonconsenting parent or guardian, if any, and to any person or association having the actual care, custody, or control of the child: **PROVIDED, That where a parent has been deprived of the custody of such child and such child has been set over for adoption by an order of a court of competent jurisdiction, after due notice in a proceeding regularly had for such purpose, no notice need be given to the parent so deprived and the record of such deprivation proceedings shall be deemed prima facie proof of such deprivation;**

(2) Such notice shall be given in the following manner: The court shall direct the clerk to issue a notice of such hearing directed to the persons entitled to notice, notifying such persons of the filing of the petition, stating briefly the object of the

petition and the purpose of the hearing, and notifying such persons of the date, time and place of the hearing. A copy of the notice shall be served in the manner provided by law for the service of the summons upon the persons entitled thereto at least ten days prior to the hearing;

(3) In the event it shall appear by the affidavit of the petitioners that the persons entitled to notice, or either of them, are nonresidents of the state or that they cannot, after diligent search, be found within the state, and that a copy of said notice has been deposited in the post office, postage prepaid, directed to such person or persons at their last known place of residence, unless it is stated in the affidavit that such residence is unknown to petitioners, then the court (~~may~~) shall order said notice published in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-five days prior to the date fixed for the hearing. Proof of service of notice shall be filed in the cause as required by law for making proof of the service of summons or summons by publication;

(4) Personal service of the notice out of the state, made twenty-five days or more prior to the date fixed for the hearing, shall be deemed equivalent to service by publication;

(5) If the court is satisfied of the illegitimacy of the child to be adopted, and so finds, (~~no~~) then notice to (~~the father~~) any nonconsenting parent of such child shall be made as required under the provisions of section 6 of this 1973 amendatory act.

(6) Except as provided in subsection (5) of this section, a notice in substantially the following form will be deemed sufficient:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF.....

In the Matter of the Adoption of) No.....
JANE DOE) NOTICE

To John Doe (nonconsenting parent) and to all whom it may concern:

You are hereby notified that there has been filed in this court a petition for the adoption of the above named, praying also that there be first an adjudication that the consent of John Doe to such adoption is not required by law.

A hearing for such purpose will be had on the.....day of....., 19....., at the hour of 9:30 a.m., at the courtroom of said superior court, at....., or to such other department of the court to which said matter may be then and there transferred, when and where all persons interested shall appear and show cause why such adjudication should not be made, and why, if made, such petition should not be thereafter heard forthwith and the prayer thereof granted.

WITNESS, The Honorable....., Judge of said Superior court, and the seal of said court hereunto affixed this.....day of....., 19.....

.....
Clerk

(SEAL)

.....
Deputy Clerk

NEW SECTION. Sec. 6. There is added to chapter 291, Laws of 1955 and to chapter 26.32 RCW a new section to read as follows:

The following requirements regarding notice of hearing on a petition for adoption shall apply to the parent of an illegitimate child who has not consented to the adoption of such child:

(1) Where the court has reason to believe or suspect that any person not before the court is or might be the parent of such child, the court shall direct the clerk to issue the notice prescribed in subsection (3) of this section to such person. The notice required under this subsection shall be served in the manner provided by law for the service of summons upon the person entitled thereto at least ten days prior to the hearing. In the event that a person entitled to notice under this subsection is a nonresident of the state or cannot after diligent search be found within the state, then:

(a) If the last known place of residence of such person is known, a copy of notice shall be deposited in the post office, postage prepaid, directed to such person at his last known place of residence.

(b) If the last known place of residence of such person is not known, then notice shall be made by publication in the manner required under subsection (2) of this section and as prescribed under subsection (3) of this section.

(2) Notice by publication shall be made in every case, except where service of the notice has been made on a person who either:

(a) acknowledges that he is a parent and the court finds him to be a parent, or

(b) has been found to be the father pursuant to chapter 26.24 RCW.

In addition, the court may require notice by publication whenever the court believes such notice might be necessary to protect the validity of adoption proceedings and any decree of adoption. Whenever notice by publication is required, the court shall direct the clerk to publish the notice in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-five days prior to the date fixed for the hearing. The notice shall be in the form prescribed under subsection (3) of this section.

(3) The notice required under subsections (1) and (2) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF.....

In the Matter of the Adoption of No.....
Jane Doe Notice

To all whom it may concern:

You are hereby notified that there has been filed in this court a petition for the adoption of the above named, praying also that there be first an adjudication that the consent of the.....[father or mother] of such child is not required by law.

You are also notified that the consent of the..... [mother or father] of the above named, such.....[mother's or father's] name being....., has already been given or is not required by law.

A hearing for such purpose will be had on theday of....., 19...., at the hour of 9:30 a.m., at the courtroom of said superior court, at....., or to such other department of the court to which said matter may be then and there transferred, when and where all persons interested shall appear and show cause why such adjudication should not be made, and why, if made, such petition should not be thereafter heard forthwith and the prayer thereof granted.

WITNESS, The Honorable....., Judge of said Superior court, and the seal of said court hereunto affixed this day of, 19.....

.....
Clerk
.....
Deputy Clerk

(SEAL)

Sec. 7. Section 1, chapter 49, Laws of 1903 and RCW 26.37.010 are each amended to read as follows:

Any benevolent or charitable society incorporated under the laws of this state for the purpose of receiving, caring for or placing out for adoption, or improving the condition of orphan, homeless, neglected or abused minor children of this state shall have authority to receive, control, and dispose of children under eighteen years of age under the following provisions:

(1) When the father and mother or the person or persons legally entitled to act as guardian of the person of any minor child shall, in writing, surrender such child to the charge and custody of said society, such child shall thereafter be in legal custody of such society for the purposes herein provided.

(2) In case of death or legal incapacity of a father or his

abandonment or neglect to provide for his family, the mother shall have authority to make such surrender, and in case of the death or legal incapacity of a mother, or her abandonment of such child, then the father shall have authority to make such surrender.

(3) In all cases where the person or persons legally authorized to make such surrender are not known, any judge of superior court may cause a notice of hearing to be published in any newspaper of general circulation printed and published in the county, and if he deems it best for such orphan, homeless, neglected or abused child, he may surrender it to any benevolent or charitable society incorporated under the laws of Washington and having for its object the care of such children.

(4) In cases where the child to be surrendered is illegitimate and is surrendered in writing by either parent, but not both parents, then the court shall hold a hearing on the surrender in the manner provided under section 8 of this 1973 amendatory act, and if the parent who has not agreed to the surrender in writing does not contest the surrender at such hearing, then such parent shall be deemed to have surrendered the child and the court shall authorize the surrender. This subsection shall not apply to or bar surrenders authorized under subsection (2) of this section.

(5) When any child shall have been surrendered in accordance with any of the preceding clauses and such child shall have been accepted by such society, then, (but not otherwise), the rights of its natural parents or of the guardian of its person (if any) shall cease and such corporation shall become entitled to the custody of such child, and shall have authority to care for and educate such child or place it either temporarily or permanently in a suitable private home in such manner as shall best secure its welfare. Such corporation shall have authority when any such child has been surrendered to it in accordance with any of the preceding provisions, and it is still in its control, to consent to its adoption under the laws of Washington. The custody or control of any such child by any such corporation or by any other corporation, institution, society or person may be inquired into, and, in the discretion of the court, terminated at any time by the superior court of the county where the child may be, upon the complaint of any person, and a showing that such custody is not in the interest of the child.

NEW SECTION. Sec. 8. There is added to chapter 49, Laws of 1903 and to chapter 26.37 RCW a new section to read as follows:

(1) Whenever one parent, but not both parents, of an illegitimate child surrenders the child in writing pursuant to subsection (4) of section 7 of this 1973 amendatory act, the surrender shall not be valid unless a petition for surrender is granted by the court in conformity with the provisions of this

section. The court shall grant such petition if the parent who did not provide the surrender in writing fails to contest the petition at the hearing held thereon.

(2) Where the court has reason to believe or suspect that any person not before the court is or might be the parent of such child, the court shall direct the clerk to issue the notice prescribed in subsection (4) of this section to such person. The notice required under this subsection shall be served in the manner provided by law for the service of summons upon the person entitled thereto at least ten days prior to the hearing. In the event that a person entitled to notice under this subsection is a nonresident of the state or cannot after diligent search be found within the state, then:

(a) If the last known place of residence of such person is known, a copy of the notice shall be deposited in the post office, postage prepaid, directed to such person at his last known place of residence.

(b) If the last known place of residence of such person is not known then notice shall be made by publication in the manner required under subsection (3) of this section and as prescribed under subsection (4) of this section.

(3) Notice by publication shall be made in every case, except where service of the notice has been made on a person who either:

(a) acknowledges that he is a parent and the court finds him to be a parent, or

(b) has been found to be the father pursuant to chapter 26.24 RCW.

In addition, the court may require notice by publication whenever the court believes such notice might be necessary to protect the validity of adoption proceedings and any decree of adoption. Whenever notice by publication is required, the court shall direct the clerk to publish the notice in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-four days prior to the date fixed for the hearing. The notice shall be in the form prescribed under subsection (4) of this section.

(4) The notice required under subsections (2) and (3) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF.....

In the Matter of the Surrender of No.....
Jane Doe Notice

To all whom it may concern;

You are hereby notified that there has been filed in this court a petition for the surrender of the above-named, praying also

that there be first an adjudication that the.....[father's or mother's] written surrender of such child is not required by law.

You are notified that the written surrender of the above-named by the.....[father or mother] of the above-named, such..... [father's or mother's] name being....., has already been given or is not required by law.

You are further notified that your failure to contest the surrender of the above-named at the hearing described in this notice may result in the relinquishment of your rights to custody and control of the above-named and the adoption of the above-named.

A hearing for such purpose will be had on theday of....., 19..., at the hour of 9:30 a.m., at the courtroom of said superior court, at....., or to such other department of the court to which said matter may be then and there transferred, when and where all persons interested shall appear and show cause why such adjudication should not be made, and why, if made, such petition should not be thereafter heard forthwith and the prayer thereof granted.

WITNESS, the Honorable....., Judge of said Superior court, and the seal of said court hereunto affixed this..... day of....., 19.....

.....

Clerk

(Seal)

.....

Deputy Clerk

NEW SECTION. Sec. 9. There is added to chapter 26.28 RCW a new section to read as follows:

The parents of an illegitimate child shall have primary rights to the custody of such child. Between the parents of an illegitimate child, that parent who is the more fit from the standpoint of furthering the child's welfare shall have the superior right to custody. In any dispute between the natural parents of an illegitimate child and person or persons who have (1) commenced adoption proceedings or who have been granted an order of adoption, and (2) pursuant to court order or placement by the department of social and health services or licensed agency have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

NEW SECTION. Sec. 10. There is added to chapter 291, Laws of 1955 and to chapter 26.32 RCW a new section to read as follows:

Where a natural parent (or parents) of an illegitimate child successfully petitions to have the adoption of the child set aside, the parent shall be liable to the adoptive parents (or parent) for their direct and indirect costs in supporting such child.

The term "direct and indirect costs" as used in this section shall include both actual expenditures and the value of services rendered by the adoptive parents in caring for the child.

NEW SECTION. Sec. 11. There is added to chapter 291, Laws of 1955 and to chapter 26.32 RCW a new section to read as follows:

In each action brought by a natural parent (or parents) of an illegitimate child to set aside the adoption of the child, no hearing or trial on the merits of the action shall be conducted until such time as the natural parent (or parents) posts a bond equal to one hundred dollars for each period of thirty days which the adoptive parents (or parent) had custody of the child. Such bond shall be used to satisfy the adoptive parents' right under section 10 of this 1973 amendatory act to compensation for support in the event the adoption is set aside.

NEW SECTION. Sec. 12. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 13. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 2, 1973.

Passed the House February 28, 1973.

Approved by the Governor March 20, 1973, with the exception of Section 11 which is vetoed.

Filed in Office of Secretary of State March 20, 1973.

Veto Overriden by Senate April 7, 1973.

Veto Overriden by House April 14, 1973.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Senate Bill No. 2459 entitled:

"AN ACT Relating to domestic relations."

This bill creates rights and processes relating to the custody of children, which recognizes that neither parent may be absolutely barred from custody of a child.

The necessity for this legislation arises from the decisional law of the U. S. Supreme Court, which has held that the fact of nonmarriage between parents is not sufficient grounds to deny a father all chance of having custody of his children.

As a direct consequence of the decision of the Supreme Court, fathers must now be given adequate notice of proceedings, within the meaning of the due process clause of the Constitution, when their illegitimate children are put up for adoption. Failure to give such notice can mean that adoptive parents may lose their child at some point in the future if the parent who was not notified attacks the adoption in court. The processes and procedures provided for in this act are designed to render as secure as possible any adoption which is finalized in a legal manner.

Section ten of the act further provides that a parent who successfully attacks an adoption to obtain custody of the adoptive child must pay the adoptive parents all direct and indirect costs of child support which the adoptive parents had previously incurred. Section eleven provides that, before a natural parent may file suit to obtain custody of his child from adoptive parents, he must file a bond in the amount of \$100 a month for every month the adoptive parents had custody of the child, such bond to be security for any damages which might be adjudged under section ten. Section eleven clearly discriminates against those persons who have insufficient resources to obtain the bond, preventing those persons from even getting into a court to test the merits of their claim. The random impact of such a provision, denying only those who have limited resources full access to the courts, deters the basic function of the judicial system, to decide the issues of a law suit on its merits. Accordingly, I have determined to veto section eleven for the reasons set forth above.

With the exception of section eleven, I have approved Senate Bill No. 2459."

Note: Secretary of the Senate's letter informing the Secretary of State that the Legislature has overridden the Governor's partial veto is as follows:

Hon. A. Ludlow Kramer
Secretary of State
Legislative Building
Olympia, Washington 98504

Dear Mr. Kramer:

Enclosed is Enrolled Senate Bill No. 2459 as vetoed by Governor Evans on March 20, 1973.

The First Extraordinary Session of the Forty-third Legislature passed the measure notwithstanding the partial veto of Governor Evans. The Senate over-rode the Governor's veto by a vote of 40 yeas and 6 nays on April 7, 1973 and the House over-rode the Governor's veto by a vote of 79 yeas and 19 nays on April 14, 1973.

Sincerely yours,

SID SNYDER
Secretary of the Senate

CHAPTER 135
[House Bill No. 337]
PUBLIC EMPLOYMENT--FELONS--
RESTRICTION REMOVED

AN ACT Relating to removing the disqualification of felons from certain employment; adding a new chapter to Title 9 RCW; and declaring an effective date.

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

NEW SECTION. Section 1. The legislature declares that it is the policy of the state of Washington to encourage and contribute to the rehabilitation of felons and to assist them in the assumption of the responsibilities of citizenship, and the opportunity to secure employment or to pursue, practice or engage in a meaningful and profitable trade, occupation, vocation, profession or business is an essential ingredient to rehabilitation and the assumption of the responsibilities of citizenship.

NEW SECTION. Sec. 2. Notwithstanding any other provisions of law to the contrary, a person shall not be disqualified from employment by the state of Washington or any of its agencies or