

CHAPTER 268.

[S. H. B. 286.]

ADOPTION.

AN ACT relating to adoption; repealing section 1667, Code of 1881, as amended by section 1, chapter 155, Laws of 1905, as amended by section 1, chapter 158, Laws of 1927, as amended by section 1, chapter 163, Laws of 1939 (section 1696, Remington's Revised Statutes, Supplement), section 1669, Code of 1881, as amended by section 2, chapter 163, Laws of 1939 (section 1698, Remington's Revised Statutes, Supplement) and section 1670, Code of 1881 (section 1699, Remington's Revised Statutes).

Be it enacted by the Legislature of the State of Washington:

Citation.

SECTION 1. This act may be known and cited as "The Washington State Adoption Act."

"Approved agency" defined.

SEC. 1-a. As used in this act, an "approved agency" shall mean a public or private child welfare agency approved in accordance with the provisions of chapter 172, Laws of 1933, as amended by chapter 176, Laws of 1935, to place children for adoption.

Who may petition.

SEC. 2. Any person not married, or any husband and wife jointly, or either spouse, when the object of adoption is the child of the other spouse, may petition the Superior Court of the county in which such petitioner is a resident, or of the county in which the person to be adopted resides, for leave to adopt, and to change the name, if desired, of any person.

Written consent required.

SEC. 3. Written consent to such adoption must be filed prior to a hearing on such petition, as follows:

(a) By the person to be adopted, if such person be fourteen (14) years of age or older, but the filing of such consent shall not obviate the necessity of securing any other consent herein required;

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

(c) If the person to be adopted be illegitimate and a minor, then by his mother, if living, except as hereinafter provided;

(d) If a legal guardian has been appointed for the person of said child, then by such guardian.

SEC. 4. No consent for the adoption of a minor shall be required as follows: When no consent required

(a) From a parent deprived of civil rights;

(b) From a parent who has been deprived of the custody of such child by a court of competent jurisdiction, after notice: *Provided, however,* 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 shall not constitute such deprivation of custody;

(c) From a parent adjudged and decreed to be incompetent;

(d) From a parent who, more than one (1) year prior to the filing of a petition hereunder, has been adjudged to be insane and who has not thereafter been found sane by competent authority authorized by law so to do;

(e) 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.

SEC. 5. 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, shall find any of the conditions set forth in the preceding section hereof to be a fact as to such parent, then the Court may decree that con-

sent of such parent shall not be required prior to adoption.

Procedure of adoption.

SEC. 6. An adoption proceeding shall be instituted by filing a petition in the Superior Court of the proper county. Such petition shall contain allegations as to all requisite facts, including the new name, if any, to be given the child, the qualifications and race of the adopter, the race of the child, and shall be signed and verified under oath by the proposed adopter. If the petition be by one spouse to adopt a child of the other spouse, then it shall be approved under oath by such other spouse.

Contents of petition.

Consent with petition.

SEC. 7. Said petition shall be accompanied by such written consent as may be required and available, or by a certified copy of whatever records are alleged to show no necessity of consent. If no consent is available, and such petition alleges facts which if true would obviate the necessity of such consent as provided in section 4 hereof, then the court may proceed as provided in section 5 hereof.

Notice of hearing in cases of non-consent.

SEC. 8. The Court shall direct notice of any hearing hereunder to be given to any non-consenting parent or guardian, if any, or any person or association having the care, custody or control of said child. Such notice shall be given in the following manner: The Court shall direct the clerk to issue a notice directed to the parent or such person or association as may have the actual care, custody, or control of such child, returnable in not less than ten (10) days from the date of its issuance, which notice shall be served in the following manner:

Clerk to issue.

Service.

Notice by publication.

By personal service as provided for the service of summons: *Provided, however,* That if it appears from the affidavit of the petitioner that personal service may not be had, then by publication in the manner provided by law for publication of summons, for a period of two (2) weeks, said notice

by publication to be returnable fifteen days after the first publication thereof: *And provided further*,
 That if the Court is satisfied of the illegitimacy of the child to be adopted, and so finds, then no notice to the father of such child shall be required. Proof of service of notice shall be filed in said cause as required by law for making proof of the service of summons.

Proviso.

SEC. 9. Upon the filing of a petition for adoption, the Court shall appoint an approved agency, or, in the discretion of the Court, any other suitable and proper person as next friend of the child, to make a complete investigation and report relative to the proposed adoption. Such report shall be filed within ten (10) days, unless the time be extended by the Court. Such investigation and report shall include all available information concerning the physical and mental condition of the child, the parents of said child, the physical, mental, moral and financial condition of the adopter, together with the circumstances of his situation in general, and any and all other facts and circumstances bearing upon the propriety and advisability of the proposed adoption. In cases where such investigation and report is made by a person other than an approved agency, the Court shall require the adopter to pay the necessary expense thereof, including a reasonable fee to the next friend and/or his attorney.

Court to direct investigation.

Report.

Contents of report.

Adopter to pay expense.

SEC. 10. If such report shall be adverse to granting adoption, then, if requested by the adopter, a hearing shall be had upon the petition for adoption, either in chambers or in open court as the adopter may in writing elect, the same to be conducted according to the general rules applicable to court hearings, at a time to be fixed by the Court.

Hearing on adverse report.

SEC. 11. Upon the conclusion of such hearing, if had, or upon filing the report of investigation, if

Court to enter decree.

any, or as soon as the procedure hereunder may permit, the Court shall enter its decree either granting or denying the petition for adoption and change of name, if any, all as in its discretion it shall deem proper. If the decree be for adoption, it shall provide:

Contents of
decree of
adoption.

(a) For the issuance of a birth certificate by the state department of registration of births, in such form and containing such information as the Court may deem proper and by such decree shall direct;

(b) Whether or not any of the records of the said department of registration of births shall be secret; and if any be directed to be secret, then the same shall be disclosed only upon order of Court for good cause shown;

(c) That such adoption shall remain interlocutory for six months from date of entry of such decree, and shall become absolute at the expiration of said six months.

Such decree shall be final as to the parties thereto and those notified as herein provided unless appealed from within thirty (30) days after entry thereof.

Procedure
on petition
to vacate or
modify
decree.

At any time prior to the expiration of six months from entry of such decree, any interested person may file in the adoption proceedings his verified petition alleging grounds, if any he has, for the vacation or modification of such decree. Upon the filing of such petition, the Court shall, upon application, fix a time for hearing thereon. At least ten days' notice of such hearing shall be served upon all of the parties to the adoption proceeding and to the persons served as provided in section 8 hereof, and also upon the person making the report of investigation pursuant to section 9. Upon such hearing, if the petition be granted, the Court shall enter an order vacating such decree of

Notice of
hearing.

adoption, and may also make such further order for the welfare of the child as in its discretion seems proper. An appeal from any order vacating or refusing to vacate such decree may be taken, as in other cases.

If no appeal be taken from the decree of adoption, and if no petition to vacate or modify the same be filed within such six month period, then said decree shall not be subject to attack either directly or collaterally, except that within two (2) years after entry thereof, any person not notified of the hearing on the petition for adoption as herein provided and claiming parental rights in said child, may institute proceedings to set aside the decree of adoption.

Decree final
in six
months.

Exception.

SEC. 12. By a decree of adoption the natural parents shall be divested of all legal rights and obligations in respect to such child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of his or her adopter or adopters, entitled to all rights and privileges, including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock. An adopter or adopters and the spouse of an adopted child, and their respective kin, shall have the rights of inheritance from such child prescribed by the statutes of descent and distribution for natural parents, spouse and their respective kin to the exclusion of the adopted child's natural parents and kin and any prior adopter or adopters and their kin: *Provided*, That where an adopter is the spouse of a natural parent of an adopted child, such natural and adopted parent and kin shall inherit the same as natural parents and their kin.

Rights of
adopted
child.

Rights of
adopters.

Proviso.

Records
closed.

SEC. 13. Unless otherwise requested by the adopter, all records of any proceeding hereunder shall be sealed and shall not be thereafter open to inspection by any person except upon order of the Court for good cause shown, and thereafter shall be again sealed as before.

SEC. 14. If the petition be for the adoption of a person of legal age and competency and is accompanied by the written consent of such person, then neither investigation nor notice to any person shall be required.

SEC. 15. If a decree of adoption be entered, as soon as the time for appeal therefrom shall have expired, or if an appeal be taken, then upon final determination thereof, if the same be affirmed, the Clerk of the Court shall transmit to the proper department of registration of births a certified copy of such decree.

Repeals.

SEC. 16. Section 1667, Code of 1881, as amended by section 1, chapter 155, Laws of 1905, as amended by section 1, chapter 158, Laws of 1927, as amended by section 1, chapter 163, Laws of 1939 (section 1696, Remington's Revised Statutes, Supplement), section 1669, Code of 1881, as amended by section 2, chapter 163, Laws of 1939 (section 1698, Remington's Revised Statutes, Supplement) and section 1670, Code of 1881 (section 1699, Remington's Revised Statutes), are repealed.

Saving
clause.

SEC. 17. If any section, sentence, clause or phrase of this act should be held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this act.

Passed the House March 6, 1943.

Passed the Senate March 10, 1943.

Approved by the Governor March 22, 1943.