

**PROPOSED  
ADOPTION ACT**

General Assembly of the Commonwealth of Pennsylvania

JOINT STATE GOVERNMENT COMMISSION

Harrisburg, Pennsylvania

1970

The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as amended, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

# JOINT STATE GOVERNMENT COMMISSION

1969-1971

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## FOREWORD

The Proposed Adoption Act would replace the Act of April 4, 1925, P. L. 127, which now provides the statutory basis and procedures for adoptions in Pennsylvania. The proposal codifies to a great extent the existing law as interpreted and implemented by the courts over four and one-half decades.

A legislative review of the procedures for placing children was undertaken in 1951 by a task force of the Joint State Government Commission, its recommendations being contained in the report *Child Placement and Adoption*. In 1953 the National Conference of Commissioners on Uniform State Laws recommended a Uniform Adoption Law for enactment by the states. Though Pennsylvania's 1925 Act was amended in 1953 to meet some objections which had been raised, a further extensive review of the law and practices was not undertaken until the 1960's. The Joint State Government Commission Task Force and Advisory Committee on Decedents' Estates Laws, because of its extensive knowledge of orphans' court law and practices, was first asked in 1962 to formulate amendments to the 1925 Act. A draft of a complete codification was presented for consideration. This draft, Senate Bill No. 824, was introduced on June 6, 1967 by Senator Richard C. Frame, Chairman of the task force, and Senators Keller, Kalman and Lane.

Contemporaneously, officials of public and private welfare agencies, the Department of Public Welfare and the Family Law Section of the Pennsylvania Bar Association explored the possibilities of revising or amending the adoption laws, particularly to facilitate the placement for adoption of children who are considered "unadoptable" under the existing law. According to those knowledgeable in the field, the primary difficulty of the existing law is the technical impediments to an effective final termination of a parent-child relationship: the specter of the unwed mother now comfortably married appearing at the adoption hearing to reclaim her child that had long been in the loving care of others, often prevented the initiation of an otherwise desirable parent-child relationship. The efforts to resolve the defects of the law culmi-

nated in the introduction of 1967 House Bills Nos. 1389 and 1390 under the sponsorship of Representative Eugene M. Fulmer and Representatives Hill, Kaufman, Filo, Schmidt, Luger and Kelly.\* The "Fulmer bills," as they became known, passed the House of Representatives with various amendments but were indefinitely postponed after first consideration in the Senate. At a public hearing held on February 20, 1968 by the Senate Committee on Judiciary General under the chairmanship of Senator Clarence D. Bell to consider Senate Bill No. 824 and the "Fulmer bills," certain objections to each of the alternative proposals were recorded. Further consideration was deemed appropriate as a result of this hearing.

In the current legislative session Senate Bill No. 824 was reintroduced in a modified form as 1969 Senate Bill No. 1233, and the "Fulmer bills" were reintroduced as 1969 House Bills Nos. 400 and 401. In addition, an attempt to meet the objections previously raised resulted in the introduction by Representative Gerald Kaufman and others of 1969 House Bill No. 1140, a modification of a revised version of the 1953 Uniform Adoption Act, which revision had been completed by the National Conference of Commissioners on Uniform State Laws in August of 1969. Again objections were raised to the three pending legislative alternatives by various interested parties including attorneys practicing in the field, judges administering the law, bar association leaders and the private and public welfare officials who had the ultimate responsibility of placing for adoption the children most directly affected.

The Honorable Hugh C. Boyle, Chairman of the Subcommittee on Adoption of the Joint State Government Commission Decedents' Estates Laws Advisory Committee acting under the direction of the task force and advisory committee, called a meeting of all interested parties to attempt to conclude a satisfactory adjustment of outstanding objections to the legislative proposals previously presented. This meeting was held in Philadelphia on January 29, 1970 and over seventy persons were invited to attend. The recommendations of that meeting were reviewed and extensively discussed at a further meeting, held in Harrisburg on

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\*1963 House Bills Nos. 1597 and 1624; 1965 Senate Bills Nos. 698 and 699; and 1967 House Bills Nos. 1081 and 1082, antecedents of the "Fulmer bills," were never reported from the committee to which they were referred.

April 29, attended by representatives of each of the various interested groups attending the January meeting. The proposed legislation embodying their recommendations was filed with the General Assembly on May 14, 1970 by Representative Gerald Kaufman and Representatives Fulmer, Anderson, Berson, Kelly, Berkes, Savitt, McClatchey, Spencer, Renninger, Blair, Sherman, Theodore Johnson, Luty, Mebus, Steckel and Fineman. That legislation, together with official comments, is hereby presented for the information and use of the members of the General Assembly.

It is hoped by all who have labored so long to produce the best possible adoption law that their considerable efforts will be acceptable to the General Assembly, the courts and those who will be affected.

Respectfully submitted,  
FRED J. SHUPNIK, *Chairman*

*Joint State Government Commission  
Harrisburg, Pennsylvania  
1970*





# AN ACT

Providing for the adoption of minors and adults and for the termination of certain parent-child relationships; providing for jurisdiction of courts; providing for recording of foreign decrees of adoption; and containing provisions for procedures, decrees and records in all matters relating thereto.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

## ARTICLE I

### PRELIMINARY PROVISIONS

Section 101. Short Title.—This act shall be known and may be cited as the “Adoption Act.”

Section 102. Definitions.—As used in this act:

(1) “Adoptee” means an individual proposed to be adopted.

(2) “Agency” means any incorporated or unincorporated organization, society, institution, or other entity, public or voluntary, which may receive or provide for the care of children, supervised by the Pennsylvania Department of Public Welfare and providing adoption services in accordance with standards established by the department.

(3) "Clerk" means the clerk of the division of the court of common pleas having jurisdiction over voluntary relinquishment, involuntary termination and adoption proceedings.

(4) "Court" means the court of common pleas.

**Comment:** Prior to the revision of the Pennsylvania Constitution in 1968, jurisdiction over adoption matters was placed by Section 1(a) of the 1925 Act in the Philadelphia Municipal Court and elsewhere in the orphans' courts; the revised Judiciary Article abolished orphans' courts and the municipal court, placing adoption jurisdiction in the orphans' court division of the several courts of common pleas (Pa. Const., Art. V, Sch. § 4) with two exceptions: in the First Judicial District (Philadelphia) the Constitution placed adoption jurisdiction in the family court division (Art. V, Sch. § 16(q)(iii)) and in the Fifth Judicial District (Allegheny County) the court by local rule, adopted under the authority of Article V, Schedule Section 17(b), retained adoption jurisdiction in the orphans' court division.

(5) "Intermediary" means any person or persons or agency acting between the parent or parents and the proposed adoptive parent or parents in arranging an adoption placement.

**Comment:** This definition derives from the 1925 Act.

(6) "Parent" includes adoptive parent.

Section 103. Severability.—If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this act are declared to be severable.

## ARTICLE II

### JURISDICTION; PARTIES

#### A. JURISDICTION

Section 201. Court.—The court of common pleas of each county shall exercise through the appropriate division original jurisdiction over voluntary relinquishment, involuntary termination, and adoption proceedings.

**Comment:** For the appropriate division of the court of common pleas, see Comment to Section 102(4) preceding; see also Section 301(16) of the Orphans' Court Act of 1951, Aug. 10, P. L. 1163; 20 P.S. 2080.301(16).

Section 202. Venue.—Proceedings for voluntary relinquishment, involuntary termination and adoption may be brought in the court of the county where the petitioner or the adoptee resides, or in the county in which is located an office of an agency having custody of the child. Proceedings may also be brought with leave of court in the county in which the adoptee formerly resided.

**Comment:** This Section modifies the venue provisions of Section 1(d) of the 1925 Act by (1) not requiring leave of court to bring the proceeding in the county where the adoptee resides or where the agency's office is located, and (2) by authorizing with leave of court venue in the county where an adoptee formerly resided. The latter change was considered advisable since "pre-adoption" termination proceedings may result in the petitioner and adoptee being non-residents by the time of the adoption proceeding. The court prior to granting "leave" will assure itself of the appropriateness of proceeding.

## B. PARTIES

Section 211. Who May Be Adopted.—Any individual may be adopted, regardless of his age or residence.

**Comment:** This section derives from Section 1(d) of the 1925 Act.

Section 212. Who May Adopt.—Any individual may become an adopting parent.

**Comment:** This section modifies the provision of Section 1(d) of the 1925 Act which limited adopting parents to "adults" and a minor spouse adopting his stepchild, the latter being added by the amendment of March 18, 1970, Act No. 70. The increased flexibility is considered appropriate in view of the court's ultimate power to refuse an adoption petition if the circumstances, such as the age of the petitioner, so warrant.

## ARTICLE III

### PROCEEDINGS PRIOR TO PETITION TO ADOPT

#### A. VOLUNTARY RELINQUISHMENT

Section 301. Relinquishment to Agency.—When any child under the age of eighteen years has been in the care of an agency for a minimum period of five days, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights and duties with respect to their child. The written consent of a parent or guardian of a petitioner shall be required if he has not reached eighteen years of age. The agency having the care of the child shall join in the petition which shall contain the agency's consent to accept custody of the child until such time as the child is adopted.

**Comment:** This section, derived from the first paragraph of Section 1.1 of the 1925 Act, was expanded to provide for the relinquishment of parental duties as well as parental rights in the case of agency placements.

Section 302. Relinquishment to Adult Intending to Adopt Child.—When any child under the age of eighteen years has been for a minimum period of thirty days in the exclusive care of an adult or adults who have filed a report of intention to adopt required by section 331, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights to their child. The written consent of a parent or guardian of a petitioner shall be required if he has not reached eighteen years of age. The adult or adults having care of the child shall file a separate consent to accept custody of the child.

**Comment:** This section, which has no counterpart in the 1925 Act, should reduce the uncertainties in private placements during the six-month waiting period required by Section 501, *infra*.

Section 303. Hearing.—Upon presentation of a petition prepared pursuant to section 301 or section 302, the court shall fix a time for hearing, which shall not be less than ten days after filing of the petition. After hearing, which shall be private, the court may enter a decree of termination of parental rights in the case of their relinquishment to an adult or a decree of termination of parental rights and duties in the case of their relinquishment to an agency.

**Comment:** This section is derived from the second paragraph of Section 1.1 of the 1925 Act.

## B. INVOLUNTARY TERMINATION

Section 311. Grounds for Involuntary Termination.—The rights of a parent in regard to a child may be terminated after a petition filed pursuant to section 312, and a hearing held pursuant to section 313, on the ground that:

(1) The parent by conduct continuing for a period of at least six months either has evidenced a settled purpose of relinquishing parental claim to a child, or has refused or failed to perform parental duties; or

(2) The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care, control, or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent; or

(3) The parent is the presumptive but not the natural father of the child.

**Comment:** This section is derived from Section 1.2 of the 1925 Act which required a finding of abandonment for at least six months as codified in clause (1). However, the grounds for abandonment have been broadened; relinquishment of parental claim *or* failure or refusal to perform parental duties is now sufficient.

Clause (2), suggested by Section 19(c) of the Revised Uniform Juvenile Court Act (1969), differs from “abandonment” in that it centers judicial inquiry upon the welfare of the child rather than the fault of the parent.

Clause (3) is included to allow the court to prevent injustice where a legal father unreasonably withholds consent to an adoption.

Section 312. Petition for Involuntary Termination.—A petition to terminate parental rights with respect to a child under the age of eighteen years may be filed by (i) either parent when termination is sought with respect to the other parent, (ii) an agency, or (iii) the individual having custody or standing in loco parentis to the child and who has filed a report of intention to adopt required by section 331. When the petition is filed by a parent who is under the age of eighteen it shall be joined in by at

least one of the parents of such petitioning parent, unless the court is satisfied that such joinder would not be in the best interest of the petitioning parent and would serve no useful purpose. A petition filed under this section shall contain an averment that the petitioner will assume custody of the child until such time as the child is adopted.

**Comment:** This section is derived from the first paragraph of Section 1.2 of the 1925 Act which authorized petitions by agencies for a finding of abandonment. Under this section petitions may also be filed by certain individuals. The last sentence of the section is intended to assure that some agency or person is responsible for the child pending his adoption.

Section 313. Hearing.—The court shall fix a time for hearing on a petition filed under section 312 of this act which shall be not less than ten days after filing of the petition. At least ten days' notice shall be given to the parent or parents whose rights are to be terminated by registered or certified mail to his or their last known address or by such other means as the court may require. The natural mother shall be a competent witness as to whether the presumptive father is the natural father of the child. After hearing, which may be private, the court shall make a finding relative to the pertinent provisions of section 311 and upon such finding may enter a decree of termination of parental rights.

**Comment:** This section is derived from the second paragraph of Section 1.2 of the 1925 Act. The provision making the natural mother a competent witness as to the paternity of the child has no counterpart in the 1925 Act. For the due process requirement of notice, see *Armstrong v. Manzo*, 380 U. S. 545, 85 S. Ct. 1187 (1965).

### C. DECREE OF TERMINATION

Section 321. Effect of a Decree of Termination.—A decree terminating all rights of a parent or a decree terminating all rights and duties of a parent entered by a court of competent jurisdiction shall extinguish the power or the right of such parent to object to or receive notice of adoption proceedings. The decree shall award custody of the child to the agency or the person consenting to accept custody under section 301 or section 302, or the petitioner in the case of a proceeding under section 312. An agency or person receiving custody of a child shall stand in loco parentis



to the child and in such capacity shall have the authority, inter alia, to consent to marriage, to enlistment in the armed forces and to major medical, psychiatric and surgical treatment, and to exercise such other authority concerning the child as a natural parent could exercise.

**Comment:** This section is derived from the second paragraphs of Sections 1.1 and 1.2 of the 1925 Act. In addition, it clarifies the relationship established between the child and the person or institution to whom custody is awarded. The phrase "decree of termination" is used throughout the act to refer to the decree of the court granting a petition to terminate the parent-child relationship whether voluntary, Sections 301 and 302, or involuntary, Section 312, *supra*.

#### D. REPORT OF INTENTION TO ADOPT; REPORT OF INTERMEDIARY; INVESTIGATION

Section 331. Report of Intention to Adopt.—Every person now having or hereafter receiving or retaining possession, custody or control of any child, for the purpose or with the intention of adopting a child under the age of eighteen years shall report to the court in which the petition for adoption will be filed. The report shall set forth the circumstances surrounding the persons receiving or retaining possession, custody or control of the child; the name, sex, racial background, age, date and place of birth, and religious affiliation of the child; the name and address of the intermediary; the fee or expenses paid or to be paid to the intermediary and the name and address of the person or persons making the report. When a person receives or retains possession, custody or control of a child from an agency the report shall set forth only the name and address of the agency, and the circumstances surrounding such person's receiving or retaining possession, custody or control of the child. No report shall be required when the child is the child, grandchild, stepchild, brother or sister of the whole or half blood, or niece or nephew by blood or marriage of the person receiving or retaining possession, custody or control.

**Comment:** This section is derived from Section 1(c) of the 1925 Act. No report is required when the adoptee is eighteen years of age or older.

Section 332. Filing of Report.—The report required by section 331 shall be filed within thirty days after the date of receipt of the possession, custody or control of the child.

Section 333. Report of Intermediary.—The intermediary who or which arranged the adoption placement of any child under the age of eighteen years shall make a written report under oath to the court in which the petition for adoption will be filed, and shall thereupon forthwith notify in writing the adopting parent or parents of the fact that such report has been filed and the date thereof. The report shall set forth:

- (1) The name and address of the intermediary;
- (2) The name, sex, racial background, age, date and place of birth, and religious affiliation of the child;
- (3) The date of the placement of the child with the adopting parent or parents;
- (4) The name, racial background, age, marital status as of the time of birth of the child and during one year prior thereto, and religious affiliation of the parents of the child (or of the mother only in the case of an illegitimate child);
- (5) Identification of proceedings in which any decree of termination of parental rights, or parental rights and duties, with respect to the child was entered;
- (6) The residence of the parents or parent of the child, if there has been no such decree of termination;
- (7) A statement that all consents required by section 411(3), (4) and (5), are attached as exhibits or the basis upon which such consents are not required;
- (8) The fee or expenses paid or to be paid to or received by the intermediary or to or by any other person or persons to the knowledge of the intermediary by reason of the adoption placement;
- (9) A full description and statement of the value of all property owned or possessed by the child; and
- (10) A statement that no provision of any act regulating the importation of dependent, delinquent or defective children has been violated with respect to the placement of the child.

**Comment:** This section is suggested in part by the last paragraph of Section 1(c) of the 1925 Act. The report, now required of all intermediaries, will provide the court with much of the information which previously was required to be included in the adoption petition. Including the information in the report rather than in the petition helps to preserve anonymity between natural and adopting parents.

Section 334. Exhibits.—The report of the intermediary shall have attached to it the following exhibits:

- (1) A birth certificate or certification of registration of birth of the child;
- (2) All consents to adoption required by section 411(3), (4) and (5);
- (3) A certified copy of any decree of termination made by a court other than the court in which the petition for adoption will be filed.

Section 335. Investigation.—When a report required by section 331 has been filed, the court shall cause an investigation to be made by one of the following: a local public child care agency or, with its consent a voluntary child care agency, or an appropriate person designated by the court. In lieu of such investigation, the court may accept an investigation made by the agency which placed the child, and the report of investigation in such cases may be incorporated into the report of the intermediary required by section 333. The investigation shall cover all pertinent information regarding the suitability of the placement, including the age, sex, health, antecedents and eligibility for adoption of the child, and the age, health, social and economic status of the adopting parents. The court may establish procedure for the payment of investigation costs.

**Comment:** This section is derived from the last paragraph of Section 1(c) of the 1925 Act.

## ARTICLE IV

### PETITION FOR ADOPTION; CONSENTS

#### A. PETITION

Section 401. Contents of Petition.—A petition for adoption shall set forth:

- (1) The full name, residence, marital status, age, occupation, religious affiliation and racial background of the adopting parent or parents and their relationship, if any, to the adoptee;
- (2) That the reports under sections 331 and 333, have been filed, if required;
- (3) The name and address of the intermediary, if any;

(4) The full name of the adoptee and the fact and length of time of the adoptee's residence with the adopting parent or parents;

(5) If there is no intermediary, or if no report of the intermediary has been filed, or if the adoptee is over the age of eighteen years, all vital statistics and other information enumerated and required to be stated of record by section 333, so far as applicable;

(6) If a change in name of the adoptee is desired, the new name;

(7) That all consents required by section 411(1) and (2) are attached as exhibits, or the basis upon which such consents are not required;

(8) That it is the desire of the petitioner or the petitioners that the relationship of parent and child be established between him, her or them and the adoptee.

**Comment:** This section is derived from Section 1(d) of the 1925 Act. The requirement of a statement "whether the person proposed to be adopted is heir to property or assets of any sort through his or her natural parent or parents"—which always has been answered "no" with hesitancy—is deleted.

This section and Section 333 require all essential information. Omitting the information concerning the adoptee and his natural parents from the petition when possible, preserves anonymity.

Section 402. Exhibits.—The petition shall have attached to it the following exhibits:

(1) The consent or consents required by section 411(1) and (2);

(2) If not already filed with a report of an intermediary, the exhibits enumerated in section 334.

## B. CONSENTS

Section 411. Consents Necessary to Adoption.—Except as otherwise provided in this act, consent to an adoption shall be required of the following:

(1) The adoptee, if over twelve years of age.

(2) The adopting parent's spouse, unless he joins in the adoption petition.

(3) The parents or surviving parent of an adoptee who shall not have reached the age of eighteen years. If any such parent or surviving parent

shall be a minor, but shall have reached the age of eighteen years, his consent shall be sufficient without the consent of his parent or guardian, and such consent shall have the same force and validity as though he were an adult. In the case of an illegitimate child, the consent of the mother only shall be necessary. The consent of the natural father of a child who was illegitimate at birth shall be required only if the relationship between mother and child was terminated by a decree entered after the marriage of the mother and the natural father. The consent of the husband of the mother shall not be necessary if, after notice to the husband, it is proved to the satisfaction of the court by evidence, including testimony of the natural mother, that the husband of the natural mother is not the natural father of the child. Absent such proof, the consent of a former husband of the natural mother shall be required if he was the husband of the natural mother at any time within one year prior to the birth of the adoptee.

(4) The agency to which custody of the child has been awarded under Article III.

(5) The guardian of the person of an adoptee under the age of eighteen years, if any there be, or of the person or persons having the custody of such adoptee, if any such person can be found, whenever the adoptee has no parent whose consent is required.

**Comment:** Clause (1) is derived from Section 2(a) of the 1925 Act. It omits the requirement of consent of the adoptee's spouse. Clause (2) is derived from Section 2(b) of the 1925 Act. Clause (3) is derived from Section 2(c) of the 1925 Act. Reference to the consent of the natural father of a child who was illegitimate at birth was added to cover the limited situation where his consent is relevant. For situations where parental consent is not required, see Sections 413 and 414, *infra*.

Clause (5) is derived from Section 2(d) of the 1925 Act, reducing the age limit to eighteen.

Section 412. Consents Not Naming Adopting Parents.—A consent to a proposed adoption meeting all the requirements of this act but which does not name or otherwise identify the adopting parent or parents shall be valid if it contains a statement that it is voluntarily executed without disclosure of the name or other identification of the adopting parent or parents.

**Comment:** This section is derived from Section 2.2 of the 1925 Act.

Section 413. When Consent Not Required; In General.—The court, in its discretion, may dispense with consents other than that of the adoptee to a petition for adoption when:

- (1) The adoptee is over eighteen years of age and has lived with one or both of the adopting parents for at least three continuous years; or
- (2) The adoptee is twenty-one years of age or older; or
- (3) The adoptee is under eighteen years of age and has no parent living whose consent is required.

**Comment:** Clause (1) is derived from the first paragraph of Section 2.1 of the 1925 Act. The required residence period with an adopting parent has been reduced from ten to three years.

Clause (2) is derived from the second paragraph of Section 2.1 of the 1925 Act.

Clause (3) clarifies that the court in appropriate circumstances may dispense with the requirement of consent by persons not the parent of the adoptee.

Section 414. When Consent Not Required; Parent.—Consent of a parent to adoption shall not be required if a decree of termination with regard to such parent has been entered. When parental rights have not previously been terminated, the court may find that consent of a parent of the adoptee is not required if, after hearing as prescribed in section 313, the court finds that grounds exist for involuntary termination under section 311.

### C. HEARINGS

Section 421. Notice.—The court shall fix a time and place for hearing. Notice thereof shall be given to all persons whose required consent has not been obtained and to such other persons as the court shall direct. Notice to the parent or parents of the adoptee, if required, may be given by the intermediary or someone acting on his behalf. Notice shall be by personal service or by registered or certified mail to the last known address of the person to be notified or in such other manner as the court shall direct.

**Comment:** This section is derived from Section 3 of the 1925 Act. To preserve anonymity the intermediary or someone in his behalf is authorized to give notice to the parents of the adoptee.

Section 422. Place of Hearing.—The hearing shall be private or in open court as the court deems appropriate.

Section 423. Attendance at Hearing.—The following must appear in person or by their representative and, if required, testify at the hearing under oath unless the court determines their presence is unnecessary:

- (1) The adopting parent or parents;
- (2) The adoptee;
- (3) All persons or agencies whose consent is required by this act; and
- (4) Any person or agency acting as an intermediary.

Section 424. Testimony; Investigation.—The court shall hear testimony in support of the petition and such additional testimony as it deems necessary to inform it as to the desirability of the proposed adoption. It shall require a disclosure of all costs and fees of any type paid or to be paid to any person or institution in connection with the adoption, including the fees of any intermediary. It also shall make or cause to be made an investigation by a person or public agency or, with its consent, a voluntary agency, specifically designated by the court to verify the statements of the petition and such other facts that will give the court full knowledge of the desirability of the proposed adoption. It may rely in whole or in part upon a report earlier made under section 335 of this act. The court may establish a procedure for the payment of investigation costs by the petitioners or by such other persons as the court may direct.

Section 425. Religious Belief.—Whenever possible, the adopting parents shall be of the same religious faith as the natural parents of the adoptee. No person shall be denied the benefits of this act because of a religious belief in the use of spiritual means or prayer for healing.

**Comment:** Except for stylistic changes, this section continues the language of Section 1(d) of the 1925 Act.

## ARTICLE V

### DECREES; EFFECT THEREOF; RECORDS

Section 501. Time of Entry of Decree.—Unless the court for cause shown determines otherwise, no decree of adoption shall be entered unless the adoptee shall have resided with the petitioner for at least six months prior thereto, or in lieu of such residence, the adoptee is at least eighteen years of age or is related by blood or marriage to the petitioner.

**Comment:** This section is derived from the first sentence of Section 4 of the 1925 Act, but eliminates the requirement of six-months residence when the adoptee is eighteen.

Section 502. Requirements and Form of Decree.—If satisfied that the statements made in the petition are true, and that the welfare of the person proposed to be adopted will be promoted by such adoption, and that all requirements of this act have been met, the court shall enter a decree so finding and directing that the person proposed to be adopted shall have all the rights of a child and heir of the adopting parent or parents, and shall be subject to the duties of a child to him or them. In any case in which the petition is withdrawn or dismissed, the court shall enter an appropriate order in regard to the custody of the child.

**Comment:** This section is derived from the second sentence of Section 4 of the 1925 Act. No reference is made to rights of inheritance which are set forth in the Decedents' Estates Laws of 1947 and are not within the scope of this act. The last sentence is added to assure that some agency or person is responsible for the child.

Section 503. Retention of Parental Status.—Whenever a parent consents to the adoption of his child by his spouse, the parent-child relationship between him and his child shall remain whether or not he is one of the petitioners in the adoption proceeding.

**Comment:** This section is declaratory of existing law: Intestate Act of 1947, § 8; Wills Act of 1947, § 14(6); and Estates Act of 1947, § 14(3).

Section 504. Name of Adoptee.—If requested by the petitioners, the decree may provide that the adoptee shall assume the name of the adop-



ting parent or parents and any given first or middle names that may be chosen.

Section 505. Impounding of Proceedings.—All petitions, exhibits, reports, notes of testimony, decrees, and other papers pertaining to any proceeding under this act, or under the act of April 4, 1925 (P. L. 127), entitled “An act relating to Adoption,” shall be kept in the files of the court as a permanent record thereof and withheld from inspection except on an order of court granted upon cause shown.

**Comment:** This section is derived from the last paragraphs of Section 1.1 (relinquishment proceedings) and Section 1.2 (abandonment proceedings), and the fourth sentence of Section 4 of the 1925 Act.

Section 506. Docket Entries.—Upon the filing of any decree under this act the clerk shall enter on the docket an entry showing the date of the decree. Information identifying the natural parents shall not be entered on the docket.

**Comment:** This section is derived from the fifth sentence of Section 4 of the 1925 Act. The last sentence is added to preserve anonymity.

Section 507. Report to the Department of Public Welfare.—When a decree of adoption has been entered, the clerk shall so report to the Department of Public Welfare, on forms supplied by the department, which the department shall keep in confidential files. Information identifying the natural and adopting parents shall not be required.

Section 508. Certificate of Adoption.—The clerk shall issue to the adopting parent or parents a certificate reciting that the court has granted the adoption. The certificate shall not disclose the name of any natural parent or the original name of the person adopted. The certificate shall be accepted in any legal proceedings in the Commonwealth, as evidence of the fact that the adoption has been granted.

**Comment:** This section has no counterpart in the 1925 Act. This certificate should not be confused with an amended certificate of birth issued by the Department of Health, Bureau of Vital Statistics, under Section 603(a)

(3) of the Vital Statistics Law of 1953, June 29, P. L. 304;  
35 P.S. 450.603.

Section 509. Foreign Decree.—When a decree of adoption of a minor is made or entered in conformity with the laws of another state or a foreign country whereby a child is adopted by a resident of this Commonwealth, a copy of the final decree, properly authenticated, may be filed with the clerk in the county of residence of the adopting parents. The decree and such other documents as may be filed therewith shall be kept in the files of the court as a permanent record thereof, and shall be withheld from inspection except on order of court granted upon cause shown. Upon the filing of a foreign decree of adoption, the clerk shall enter upon the docket an entry showing the foreign court, identification of the proceedings therein and the date of the decree. After the decree has been filed, the clerk shall make a report thereof to the Department of Public Welfare on a form supplied by the department, which the department shall keep in confidential files.

Information identifying the natural parents shall not be required.

**Comment:** This section, derived from Section 4.1 of the 1925 Act, has been expanded to include adoption decrees of other states.

## ARTICLE VI

### REPEALERS; APPLICABILITY; PENDING PROCEEDINGS; EFFECTIVE DATE

Section 601. Repeals.—(a) The act of April 4, 1925 (P. L. 127), entitled “An act relating to Adoption,” is hereby repealed absolutely.

(b) All other acts and parts of acts are repealed in so far as they are inconsistent herewith.

Section 602. Applicability; Pending Proceedings.—(a) This act shall apply to all proceedings begun on or after January 1, 1971.

(b) Adoption proceedings in progress and not completed before the effective date of this act may be amended after January 1, 1971 to conform to this act if the parties in the particular case shall so agree. Otherwise, such proceedings shall be carried to their conclusion under the act of April 4, 1925 (P. L. 127), entitled “An act relating to Adoption.”

Section 603. Effective Date.—This act shall take effect January 1, 1971.