



General Assembly

Amendment

February Session, 2000

LCO No. 4871

Offered by:

REP. TULISANO, 29th Dist.

REP. CURREY, 10th Dist.

REP. LAWLOR, 99th Dist.

REP. FLAHERTY, 8th Dist.

REP. KNOPP, 137th Dist

REP. O'NEILL, 69th Dist.

To: Subst. House Bill No. 5830

File No. 461

Cal. No. 371

"An Act Concerning The Best Interest Of Children In Adoption Matters."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) The General Assembly finds that:

4 (1) The best interests of a child are promoted by having persons in
5 the child's life who manifest a deep concern for the child's growth and
6 development;

7 (2) The best interests of a child are promoted when a child has as
8 many persons loving and caring for the child as possible;

9 (3) The best interests of a child are promoted when the child is part
10 of a loving, supportive and stable family, whether that family is a
11 nuclear, extended, split, blended, single parent, adoptive or foster
12 family; and

13 (4) It is further found that the current public policy of the state of
14 Connecticut is now limited to a marriage between a man and a
15 woman.

16 Sec. 2. Section 45a-724 of the general statutes is repealed and the
17 following is substituted in lieu thereof:

18 (a) The following persons may give a child in adoption:

19 (1) A statutory parent appointed under the provisions of section
20 17a-112, section 45a-717 or section 45a-718 may, by written agreement,
21 subject to the approval of the Court of Probate as provided in section
22 45a-727, as amended by this act, give in adoption to any adult person
23 any minor child of whom he or she is the statutory parent; provided, if
24 the child has attained the age of twelve, the child shall consent to the
25 agreement.

26 (2) Subject to the approval of the Court of Probate as provided in
27 section 45a-727, as amended by this act, any parent of a minor child
28 may agree in writing with his or her spouse that the spouse shall adopt
29 or join in the adoption of the child; if that parent is (A) the surviving
30 parent if the other parent has died; (B) the mother of a child born out
31 of wedlock, provided that if there is a putative father who has been
32 notified under the provisions of section 45a-716, the rights of the
33 putative father have been terminated; (C) a former single person who
34 adopted a child and thereafter married; or (D) the sole guardian of the
35 person of the child, if the [other parent's] parental rights, if any, of any
36 person other than the parties to such agreement have been terminated.

37 (3) Subject to the approval of the Court of Probate as provided in
38 section 45a-727, as amended by this act, any parent of a minor child
39 may agree in writing with one other person who shares parental
40 responsibility for the child with such parent that the other person shall
41 adopt or join in the adoption of the child, if the parental rights, if any,
42 of any other person other than the parties to such agreement have been
43 terminated.

44 [(3)] (4) Subject to the approval of the Court of Probate as provided
45 in section 45a-727, as amended by this act, the guardian or guardians
46 of the person of any minor child who is free for adoption in accordance
47 with section 45a-725 may agree in writing with a relative that the
48 relative shall adopt the child. For the purposes of this subsection
49 "relative" shall include, but not be limited to, a person who has been
50 adjudged by a court of competent jurisdiction to be the father of a child
51 born out of wedlock, or who has acknowledged his paternity under the
52 provisions of section 46b-172a, with further relationship to the child
53 determined through the father.

54 (b) If all parties consent to the adoption under [subdivisions (2) and
55 (3)] subdivision (2), (3) or (4) of subsection (a) of this section, then the
56 application to be filed under section 45a-727, as amended by this act,
57 shall be combined with the consent termination of parental rights to be
58 filed under section 45a-717. An application made under [subdivisions
59 (2) and (3)] subdivision (2), (3) or (4) of subsection (a) of this section
60 shall not be granted in the case of any child who has attained the age
61 of twelve without the child's consent.

62 Sec. 3. Section 45a-727 of the general statutes, as amended by section
63 10 of public act 99-166, is repealed and the following is substituted in
64 lieu thereof:

65 (a) (1) Each adoption matter shall be instituted by filing an
66 application in a Court of Probate, together with the written agreement
67 of adoption, in duplicate. One of the duplicates shall be sent
68 immediately to the Commissioner of Children and Families.

69 (2) The application shall incorporate a declaration that to the best of
70 the knowledge and belief of the declarant there is no other proceeding
71 pending or contemplated in any other court affecting the custody of
72 the child to be adopted, or if there is such a proceeding, a statement in
73 detail of the nature of the proceeding and affirming that the proposed
74 adoption would not conflict with or interfere with the other
75 proceeding. The court shall not proceed on any application which does

76 not contain such a declaration. The application shall be signed by one
77 or more of the parties to the agreement, who may waive notice of any
78 hearing on it. For the purposes of this declaration, visitation rights
79 granted by any court shall not be considered as affecting the custody of
80 the child.

81 (3) An application for the adoption of a minor child not related to
82 the adopting parents shall not be accepted by the Court of Probate
83 unless (A) the child sought to be adopted has been placed for adoption
84 by the Commissioner of Children and Families or a child-placing
85 agency, and the placement for adoption has been approved by the
86 commissioner or a child-placing agency; (B) the placement
87 requirements of this section have been waived by the Adoption
88 Review Board as provided in section 45a-764; [or] (C) the application is
89 for adoption of a minor child by a stepparent as provided in section
90 45a-733; or (D) the application is for adoption of a child by another
91 person who shares parental responsibility for the child with the parent
92 as provided in subdivision (3) of subsection (a) of section 45a-724, as
93 amended by this act. The commissioner or a child-placing agency may
94 place a child in adoption who has been identified or located by a
95 prospective parent, provided any such placement shall be made in
96 accordance with regulations promulgated by the commissioner
97 pursuant to section 45a-728. If any such placement is not made in
98 accordance with such regulations, the adoption application shall not be
99 approved by the Court of Probate.

100 (4) The application and the agreement of adoption shall be filed in
101 the Court of Probate for the district where the adopting parent resides
102 or in the district where the main office or any local office of the
103 statutory parent is located.

104 (5) The provisions of section 17a-152, regarding placement of a child
105 from another state, and section 17a-175, regarding the interstate
106 compact on the placement of children, shall apply to adoption
107 placements.

108 (b) (1) The Court of Probate shall request the commissioner or a
109 child-placing agency to make an investigation and written report to it,
110 in duplicate, within sixty days from the receipt of such request. A
111 duplicate of the report shall be sent immediately to the Commissioner
112 of Children and Families.

113 (2) The report shall be filed with the Court of Probate within the
114 sixty-day period. The report shall indicate the physical and mental
115 status of the child and shall also contain such facts as may be relevant
116 to determine whether the proposed adoption will be in the best
117 interests of the child, including the physical, mental, genetic and
118 educational history of the child and the physical, mental, social and
119 financial condition of the parties to the agreement and the biological
120 parents of the child, if known, and whether the best interests of the
121 child would be served in accordance with the criteria set forth in
122 section 1 of this act. The report shall include a history of physical,
123 sexual or emotional abuse suffered by the child, if any. The report may
124 set forth conclusions as to whether or not the proposed adoption will
125 be in the best interests of the child.

126 (3) The physical, mental and genetic history of the child shall
127 include information about: (A) The child's health status at the time of
128 placement; (B) the child's birth, neonatal, and other medical,
129 psychological, psychiatric, and dental history information; (C) a record
130 of immunizations for the child; and (D) the available results of
131 medical, psychological, psychiatric and dental examinations of the
132 child. The report shall include information, to the extent known, about
133 past and existing relationships between the child and the child's
134 siblings, biological parents, extended family, and other persons who
135 have had physical possession of or legal access to the child. The
136 educational history of the child shall include, to the extent known,
137 information about the enrolment and performance of the child in
138 educational institutions, results of educational testing and
139 standardized tests for the child, and special educational needs, if any,
140 of the child.

141 (4) The adoptive parents are entitled to receive copies of the records
142 and other information relating to the history of the child maintained by
143 the commissioner or child-placing agency. The adoptive parents are
144 entitled to receive copies of the records, provided if required by law,
145 the copies have been edited to protect the identity of the biological
146 parents and any other person whose identity is confidential and other
147 identifying information relating to the history of the child. It is the
148 duty of the person placing the child for adoption to edit, to the extent
149 required by law, the records and information to protect the identity of
150 the biological parents and any other person whose identity is
151 confidential.

152 (5) The report shall be admissible in evidence subject to the right of
153 any interested party to require that the person making it appear as a
154 witness, if available, and such person shall be subject to examination.

155 (6) For any report under this section the Court of Probate may assess
156 against the adopting parent or parents a reasonable fee covering the
157 cost and expenses of making the investigation. The fee shall be paid to
158 the state or to the child-placing agency making the investigation and
159 report, provided the report shall be made within the sixty-day period
160 or other time set by the court.

161 (c) (1) Upon the expiration of the sixty-day period or upon the
162 receipt of such report, whichever is first, the Court of Probate shall set
163 a day for a hearing upon the agreement and shall give reasonable
164 notice of the hearing to the parties to the agreement, the child-placing
165 agency if such agency is involved in the adoption, the Commissioner
166 of Children and Families and to the child, if over twelve years of age.

167 (2) At the hearing the court may deny the application, enter a final
168 decree approving the adoption if it is satisfied that the adoption is in
169 the best interests of the child or order a further investigation and
170 written report to be filed, in duplicate, within whatever period of time
171 it directs. A duplicate of such report shall be sent to the commissioner.
172 The court may adjourn the hearing to a day after that fixed for filing

173 the report. If such report has not been filed with the court within the
174 specified time, the court may thereupon deny the application or enter a
175 final decree in the manner provided in this section.

176 (3) The Court of Probate shall not disapprove any adoption under
177 this section solely because of an adopting parent's marital status or
178 because of a difference in race, color or religion between a prospective
179 adopting parent and the child to be adopted or because the adoption
180 may be subsidized in accordance with the provisions of section
181 17a-117.

182 (4) The Court of Probate shall ascertain as far as possible the date
183 and the place of birth of the child and shall incorporate such facts in
184 the final decree, a copy of which shall be sent to the Commissioner of
185 Children and Families.

186 Sec. 4. Section 45a-731 of the general statutes is repealed and the
187 following is substituted in lieu thereof:

188 A final decree of adoption, whether issued by a court of this state or
189 a court of any other jurisdiction, shall have the following effect in this
190 state:

191 (1) All rights, duties and other legal consequences of the biological
192 relation of child and parent shall thereafter exist between the adopted
193 person and the adopting parent and [his] the relatives of such adopting
194 parent. Such adopted person shall be treated as if [he] such adopted
195 person were the biological child of the adopting parent, for all
196 purposes including the applicability of statutes which do not expressly
197 exclude an adopted person in their operation or effect;

198 (2) The adopting parent and the adopted person shall have rights of
199 inheritance from and through each other and the biological and
200 adopted relatives of the adopting parent. The right of inheritance of an
201 adopted person extends to the heirs of such adopted person, and such
202 heirs shall be the same as if such adopted person were the biological
203 child of the adopting parent;

204 (3) The adopted person and the biological children and other
205 adopted children of the adopting parent shall be treated, unless
206 otherwise provided by statute, as siblings, having rights of inheritance
207 from and through each other. Such rights of inheritance extend to the
208 heirs of such adopted person and of the biological children and other
209 adopted children, and such heirs shall be the same as if each such
210 adopted person were the biological child of the adopting parent;

211 (4) The adopted person shall, except as hereinafter provided, be
212 treated as if [he] such adopted person were the biological child of the
213 adopting parent for purposes of the applicability of all documents and
214 instruments, whether executed before or after the adoption decree is
215 issued, which do not expressly exclude an adopted person in their
216 operation or effect. The words "child", "children", "issue", "descendant",
217 "descendants", "heir", "heirs", "lawful heirs", "grandchild" and
218 "grandchildren", when used in any will or trust instrument shall
219 include legally adopted persons unless such document clearly
220 indicates a contrary intention. Nothing in this section shall be
221 construed to alter or modify the provisions of section 45a-257
222 concerning revocation of a will when a child is born as the result of
223 artificial insemination;

224 (5) [The] Except in the case of an adoption as provided in
225 subdivision (2) or (3) of subsection (a) of section 45a-724, as amended
226 by this act, the legal relationship between the adopted person and [his]
227 the adopted person's biological parent or parents and the relatives of
228 such biological parent or parents is terminated for all purposes,
229 including the applicability of statutes which do not expressly include
230 such an adopted person in their operation and effect. The biological
231 parent or parents of the adopted person is relieved of all parental
232 rights and responsibilities;

233 (6) [The] Except in the case of an adoption as provided in
234 subdivision (2) or (3) of subsection (a) of section 45a-724, as amended
235 by this act, the biological parent or parents and their relatives shall
236 have no rights of inheritance from or through the adopted person, nor

237 shall the adopted person have any rights of inheritance from or
238 through [his] the biological parent or parents of the adopted person
239 and [their] the relatives of such biological parent or parents, except as
240 provided in this section;

241 (7) [The] Except in the case of an adoption as provided in
242 subdivision (2) or (3) of subsection (a) of section 45a-724, as amended
243 by this act, the legal relationship between the adopted person and [his]
244 the adopted person's biological parent or parents and the relatives of
245 such biological parent or parents is terminated for purposes of the
246 construction of documents and instruments, whether executed before
247 or after the adoption decree is issued, which do not expressly include
248 the individual by name or by some designation not based on a parent
249 and child or blood relationship, except as provided in this section;

250 (8) Notwithstanding the provisions of subdivisions (1) to (7),
251 inclusive, of this section, when one of the biological parents of a minor
252 child has died and the surviving parent has remarried subsequent to
253 such parent's death, adoption of such child by the person with whom
254 such remarriage is contracted shall not affect the rights of such child to
255 inherit from or through the deceased parent and the deceased parent's
256 relatives;

257 (9) Nothing in this section shall deprive an adopted person who is
258 the biological child of a veteran who served in time of war as defined
259 in section 27-103 of aid under the provisions of section 27-140 or
260 deprive a child receiving benefits under the Social Security Act, 42
261 USC Sec. 301 et seq., as amended from time to time, from continued
262 receipt of benefits authorized under said act;

263 (10) Except as provided in subdivision (11) of this section, the
264 provisions of law in force prior to October 1, 1959, affected by the
265 provisions of this section shall apply to the estates or wills of persons
266 dying prior to said date and to inter vivos instruments executed prior
267 to said date and which on said date were not subject to the grantor's
268 power to revoke or amend;

269 (11) The provisions of subdivisions (1) to (9), inclusive, of this
270 section shall apply to the estate or wills of persons dying prior to
271 October 1, 1959, and to inter vivos instruments executed prior to said
272 date and which on said date were not subject to the grantor's power to
273 revoke or amend, unless (A) a contrary intention of the testator or
274 grantor is demonstrated by clear and convincing evidence or (B)
275 distribution of the estate or under the will or under the inter vivos
276 instrument has been or will be made pursuant to court order entered
277 prior to October 1, 1991;

278 (12) No fiduciary, distributee of the estate, or person to whom a
279 legacy has been paid shall be liable to any other person for any action
280 taken or benefit received prior to October 1, 1991, provided any such
281 action was taken or benefit was received in good faith by such
282 fiduciary, distributee or legatee with respect to the applicability of
283 statutes concerning the rights of inheritance or rights to take of
284 adopted persons under any instrument executed prior to October 1,
285 1959;

286 (13) No fiduciary shall have the obligation to determine the rights of
287 inheritance or rights to take of an adopted person under an instrument
288 executed prior to October 1, 1959, unless the fiduciary receives a
289 written claim for benefits by or on behalf of such adopted person.

290 Sec. 5. (NEW) Nothing in this act shall be construed to establish or
291 constitute an endorsement of any public policy with respect to
292 marriage, civil union or any other form of relation between unmarried
293 persons or with respect to any rights of or between such persons other
294 than their rights and responsibilities to a child who is a subject of an
295 adoption as provided for in sections 2 and 3 of this act."