

CHAPTER 322.

ADOPTION.

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322.01 Petition for adoption; who may be adopted. Any adult may petition the county court of the county of his residence for permission to adopt a person of any age; and any nonresident of the state who is related to the person to be adopted may petition the county court of the county in which such person resides for such permission; but no petition by a married person shall be granted unless the other spouse joins therein or is the natural father or mother of such person.

322.02 Investigation; probationary residence. (1) Upon the filing of a petition for adoption the court shall cause an investigation to be made of the environment and antecedents of the person to be adopted to ascertain whether he is a proper subject for adoption, and of the home of the petitioner to determine whether it is a suitable home. The investigation shall be made by a licensed child welfare agency or the Wisconsin child center or county home for dependent children or by a probation officer or by some other person or by the state department of public welfare, as the court directs.

(2) The results of such investigation shall be fully reported to the court prior to hearing the petition. The report shall be filed within 90 days after entry of order for hearing on adoption unless extended by further order of the court, and shall be part of the records of the proceedings. The report shall state the facts found and show that the proposed home was inspected and that a careful inquiry was made as to the suitability of the home. The report shall also include additional facts necessary to enable the state bureau of vital statistics to fill out a new birth certificate as authorized by section 69.33. Inquiry shall be made of at least 2 responsible citizens residing in the same community as the petitioner, and of his pastor. If the parental rights of the natural parents of a minor have been judicially terminated, the report shall contain a summary of the proceedings.

(3) No petition for the adoption of a minor shall be granted until he has lived 6 months in the home of the petitioner; the 6 months' requirement may be waived by order of the court upon a petition reciting the reasons therefor, when the court is satisfied that immediate action is necessary and that the minor and the home of the petitioner are suited to each other.

History: 1951 c. 264.

322.03 Adoption; notice of hearing. (1) The court shall appoint a time and place for hearing the petition, and shall allow a reasonable time, for the investigation required by section 322.02. Notice of the hearing shall be mailed to the person or agency making such investigation and proof thereof shall be filed. If the hearing is not had at the time appointed, it shall stand adjourned. The court may, upon its own motion or upon the motion of an interested person, fix another time for the hearing and upon such hearing may grant or deny the petition or grant a further adjournment.

(2) The petitioner and the person to be adopted, if over 14 years of age, shall attend the hearing, unless the court orders otherwise.

(4) The hearing may be in chambers unless an interested person objects.

322.04 Consent to adoption. (1) **GENERAL RULE; FORMS.** Except as otherwise specified in this section, no adoption of a minor shall be granted without the written consent of his parents or his guardian if he has one. In the case of a minor 14 years of age or older, the consent of the minor is necessary and must be given in writing before the county judge. The court may for cause waive the requirement that consent be given in the presence of the county judge. The board of county judges of Wisconsin shall prescribe forms for use in giving consent. The consent of the father of an illegitimate child is not required in any case, including the case where the father and mother have intermarried after the

mother's parental rights have been judicially terminated. As used in this section, the word "guardian" does not mean or include guardian ad litem nor one who has temporary custody or control of the minor.

(2) CONSENT IF PARENTAL RIGHTS ARE TERMINATED. If the parental rights of one parent have been judicially terminated, the consent of the other is sufficient; but if the parental rights of both parents or the surviving parent or the mother of an illegitimate minor have been so terminated, adoption may be granted on receipt of a report and recommendation of the state department of public welfare, or if the permanent care, custody or guardianship of the minor has been judicially transferred to the Wisconsin child center or to a licensed child welfare agency or county home for dependent children, then on the consent of the department (as to children committed to said center) or of such agency or home.

(3) CONSENT IF NO PARENT IS LIVING, OR PARENT IS A NONRESIDENT. If the minor has no living parent or if a nonresident parent has executed a written release, valid at the time of its execution, of the custody of the minor, adoption may be granted on receipt of a report and recommendation of the state department of public welfare, or if the permanent care, custody or guardianship of the minor has been judicially transferred to the Wisconsin child center or to a licensed child welfare agency or to a county home for dependent children then on consent of the department (as to children committed to said center) or of such agency or home. If the minor is a nonresident the report and recommendation of the state department of public welfare are required.

(4) EXECUTION OF CONSENT BY PARENT. The consent by a parent must be signed before a judge of any court of record, unless the court otherwise orders, and after the judge has explained to the parent the effect of the consent and has examined the parent and is satisfied that consent is voluntary and is freely given. The minority of a parent is not ground for revoking consent.

(5) REPORT BY AGENCY OR HOME. If a child welfare agency or a county home for dependent children or the state department of public welfare is the guardian of the minor, adoption shall not be granted until a detailed report and recommendation and consent by such guardian are filed with the court. If the department makes a report and recommendation pursuant to subsection (2), the agency or home need not report or recommend pursuant to this subsection.

(6) CONSENT FOR ILLEGITIMATE MINOR. Except as otherwise provided in subsection (2), the recommendation of the state department of public welfare and the consent of the mother of an illegitimate minor are required.

(7) ADOPTION OF ADULTS. If the person to be adopted is an adult his consent alone is required.

(8) ABANDONMENT OF MINOR 18 YEARS OLD. If the parents of a minor who is 18 years of age or older have abandoned him the court may terminate the rights of the parents in the adoption proceeding after notice and a hearing as provided in section 48.07 (7).

(9) GUARDIAN AD LITEM FOR MINOR OR INCOMPETENT PARENT ON CONDITIONAL RELEASE. In the case of a minor or incompetent parent or a parent who is on release under section 51.13, a guardian ad litem shall be appointed for the parent and the consent of such parent shall be effective only when concurred in by the written consent of the guardian ad litem.

(10) TIME LIMIT ON REPORTS; EFFECT OF FAILURE TO FILE. Notwithstanding any requirement herein to the contrary, reports and recommendations required by this section shall be filed within 6 months after entry of the order for the hearing on petition for adoption, unless extended by further order of the court. The court may proceed with the hearing on adoption and grant or deny the same upon failure to file such report or recommendation within the time fixed by the court.

(11) DISPLACED PERSONS. Pursuant to section 46.016 the state department of public welfare is authorized to co-operate with the federal displaced persons commission under the displaced persons act of 1948, as amended. Whenever any minor child is brought to this state pursuant to the displaced persons act and available for adoption, the department or a licensed child-placing agency shall file a petition alleging that fact with the juvenile court of the county in which such child is placed, and the court shall thereupon make an order committing the said child to the department as its guardian or to a licensed child-placing agency until it becomes of age or is adopted. Any such child may be adopted pursuant to this section, except that a certification of the displaced persons commission stating that such child is available for adoption shall be in lieu of any further proof of death of parents, valid release by parents, termination of parental rights, or any other similar requirements.

History: 1951 c. 324, 533.

Judgment of divorce awarding permanent custody of a minor child to one parent does not judicially terminate the parental rights of the other parent so as to obviate consent of such other parent to an adoption under (2). 39 Atty. Gen. 67.

322.05 Order of adoption; legal effect; change of name; report; birth certificate, when not changed. If, after the hearing and the filing of the necessary consent to adoption, the court is satisfied that the petition is true, that the petitioners are of good moral character and of reputable standing in the community and able to properly maintain and educate the person proposed for adoption, that his best interests will be promoted by adoption, that he is suitable for adoption, and that all legal requirements have been complied with, the court shall make an order that from the date thereof such person shall be to all legal intents and purposes the child of the petitioners. The order may change his name to that of the adoptive parents. The order shall set forth all jurisdictional facts. After entry of the order the clerk of the court shall promptly mail a copy thereof to the state bureau of vital statistics and furnish any additional data needed for the corrected birth certificate. Whenever the parents by adoption request, or the adopting parent and his or her spouse who is the natural parent of the person adopted request, that the birth certificate for the person adopted be not changed or corrected, then the court shall so order, and in such event no new or corrected birth certificate shall be filled out, filed, signed or entered by the state registrar of vital statistics or by any other person, notwithstanding the provisions of section 69.33 or any other statute or law of this state.

322.055 Withdrawal or denial of petition. (1) If the petition is withdrawn or denied, and if parental rights have been terminated and a child welfare agency or a county home for dependent children or the state department of public welfare is the guardian of the minor, the court shall return the child to the custody of such department or agency.

(2) If there is no such child welfare agency or county home for dependent children or state department of public welfare as guardian of the minor the court shall certify the case for appropriate action and disposition to the juvenile court.

History: 1951 c. 264.

322.06 Records closed. All records of proceedings in adoption cases and all papers and books relating to such proceedings shall be kept in a separate locked file and shall not be open to inspection or copy except upon order of the court for good cause shown. No person in charge of adoption records shall disclose the names of the natural or adoptive parents of a child unless ordered to do so by the court. All correspondence and papers, relating to the investigation, which are not a part of the court record, made or received by the persons or agencies directed by the court in section 322.02 (1), except those of the private licensed child-welfare agencies, Milwaukee county children's home, Wisconsin child center, or the department of public welfare created pursuant to section 49.51 (2) (a), shall be transferred to the state department of public welfare and placed in its closed files.

History: 1951 c. 306.

322.07 Effect of adoption. (1) Except as otherwise provided in this section, the effect of the order of adoption is to completely change the legal status of the adopted person from that of a child of the natural parents to that of a child of the adoptive parents; and to free the adopted person from all legal obligations to or on account of the natural parents, and vice versa.

(2) If the adopted person is not survived by a spouse or by issue or by an adoptive parent and there is no heir or next of kin of the adoptive parents, the property of the adopted person shall descend and be distributed as though there had been no adoption.

(3) If a parent of the person adopted is married to the adoptive parent the relation of the child to the natural parent is not altered by the adoption.

(4) The adopted person does not lose the right to inherit from his natural parents.

322.08 Subsequent adoption. The adoption of an adopted person is authorized and in such case the word father, mother or parent signifies father, mother or parent by adoption.

322.09 Annulment of adoption; limitations. (1) In adoption proceedings failure to comply with the essential requirements of this chapter shall be ground for annulment of the order of adoption within 2 years after date of entry thereof. Except as provided in subsection (2), an order for adoption made by a court of this state which had jurisdiction of the parties and of the subject matter shall be conclusive and binding on all persons and in all proceedings after 2 years from the date of entry thereof.

(3) The department shall be made a party to proceedings in which the validity of an adoption is an issue. Notice of the proceedings shall be served upon the department in the same manner as upon an adverse party.

History: 1951 c. 264.