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CHILD WELFARE AND PUBLIC ASSISTANCE

By H. E. WETZEL[°] AND ELWOOD ROSENBAUM^{°°}

The 1950 session of the General Assembly rewrote numerous sections of the laws dealing with public assistance and child welfare, including the entire adoption statute. However, few of the changes in procedure were really significant, and many of the additions simply gave legislative sanction to practices developed by extensive and favorable experience as regulations of the Department of Economic Security

The principal changes in the new statute, codified in KRS 199.470 to 199.630, relate to the consent required for adoption. Consent of the Department of Economic Security to an adoption is no longer essential. Also, provision was made for terminating the rights of natural parents prior to the adoption proceedings; and, in certain instances, the Court was given authority to grant an adoption without the consent of either the Department of Economic Security or the natural parents of the child to be adopted. Some changes as to the necessary parties plaintiff and the defendant were made and the requirement of a guardian ad litem for the child was eliminated where its natural parents are parties defendant.

The major changes, in the order in which they appear in the new statute, are as follows:

1. *Petition.* The Circuit Court now has authority to waive the requirement that in a married person's petition for adoption the husband or wife also be joined as party plaintiff.¹ The former requirement that the petition be verified has now been deleted.

2. *Parties defendant.* A new section has been added providing for the termination of the rights of the natural parents in a separate action prior to the adoption.² Where this is done the natural parents are not necessary parties defendant in the later adoption proceeding. The Act further provides that no guardian *ad litem* for the child is necessary if its natural parents are parties defendant although the child must still be named a party defendant.³ Formerly, this was true only

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¹ KY. REV. STAT. sec. 199.470.

Id. sec. 199.600.

³ *Id.* sec. 199.400.

when the Department of Economic Security or some individual, institution or agency had been awarded the care, custody and control of the child and it was named a party defendant.

3. *Consent.* Formerly the consent of the Department of Economic Security was required when the child to be adopted had no parent, next of kin, statutory guardian or person standing *in loco parentis* and the consent of the Department was formerly required when the child was illegitimate or when its parents were incompetent. The consent of the Department of Economic Security is not necessary to the granting of an adoption under the new Act, although the former procedure of furnishing the Department with a copy of the petition and the report by the Department to the Court is still required.⁴

It is now possible to grant the adoption of a child of divorced parents when the parent with the custody of the child consents to the adoption, even in case the other parent should refuse consent. When the provisions of sections 199.500 (4) and 199.600 (1) or (2) relating to neglected or abandoned children are satisfied, it is also made possible to grant the adoption without the consent of their natural parents or the Department of Economic Security

4. *Order of adoption and judgment of adoption.* Section 199.520 requires the entry of an order of adoption, which contains a statement of the jurisdictional facts and directs the entry of a judgment of adoption. Section 199.530 then requires the entry of a judgment of adoption which will contain only the adopted name of the child without any reference to its former name.

5. *Annulment.* The 1950 Act added a new section, 199.540 (1), which provides for the annulment of adoption within five years upon discovery of certain unknown racial traits.

6. *Birth certificate.* The new Act provides for the filing with the Division of Vital Statistics of a birth certificate for the adopted child in its adopted name.⁵

A new responsibility long recommended by those who work with children, was given to the Department of Economic Security by sections 199.640 to 199.670 which require that after July 1, 1950 every child caring or child placing agency in the state shall have a license issued by the Department. Minimum records on children cared for or placed are required to be kept by the agencies. The Department is authorized to adopt regulations for such agencies, establishing

⁴ *Id.* sec. 199.510.

⁵ *Id.* sec. 199.570.

standards of care and service relating to the health and safety of children.

Chapter 205 on Public Assistance combines three former chapters on Old Age Assistance, Aid to the Needy Blind, and Assistance to Children. A number of the regulations adopted by the Department of Economic Security since its establishment by the 1948 General Assembly are now written into the law

Other items now a part of the statute include:

1. *Witnesses and evidence.* Broadened powers are given the Department to subpoena witnesses and records and to require testimony under proper safeguards in all matters relating to the administration of the Act.⁶

2. *Eligibility for Public Assistance.* Proper application and proof of residence in the state for the period prescribed by regulation is required.⁷ Receipt of assistance which was formerly prohibited to inmates of private institutions is now permitted⁸ Another new provision gives the Department authority to require bastardy proceedings as a condition of eligibility unless it would be futile or not to the best interest of the child, the mother, or the state.⁹ Similarly, action may be required to enforce support by a parent who has abandoned a child.

3. *Amount of Assistance.* Specific authority is given to prorate funds over all categories of assistance if the available funds during a budgetary period are not sufficient to meet the full needs of recipients.¹⁰ Maximum restrictions on grants are removed. Resources of the applicant are now defined to include the value of the joint and separate property and income of any old age applicant and spouse if living together.

4. *Payments.* The Department is now given authority to request an accounting from any person receiving grants on behalf of another individual and to suspend payment pending reasonable assurance that future grants will be properly used.¹¹

⁶ *Id.* sec. 205.170.

⁷ *Id.* sec. 205.200.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Id.* sec. 205.210.

¹¹ *Id.* sec. 205.220.