MINUTES OF THE SENATE COMMITTEE ON JUDICIARY

Held in Room 519 S, at the Statehouse at 11:00 a. m./~~p.m.~~ on February 17, 19 78.

All members were present except: Senators Gaar and Parrish

The next meeting of the Committee will be held at 1:30 ~~a.m./~~p. m., on February 17, 19 78.

~~These minutes of the meeting held on [illegible] were considered, corrected and approved.~~

Elaine J. Bowers
Chairman

The conferees appearing before the Committee were:

Senator Jan Meyers
Jerry Coppel - Kansas Children's Service League, Wichita
Rita Winter - Andale, Kansas
Bernard M. Treiber - Wichita
William Davitt - Wichita attorney
Louis Finocchario - Catholic Social Service, Kansas City, Kansas
Gwen Osborn - Kansas Catholic Social Services
Martha Fletcher - Family and Children Services, Overland Park
Kay Rierson - Citizens Action League, Wichita
Senator Joseph F. Norvell
Dean Jones - Lincoln, Kansas
Perry West - Lincoln, Kansas
Dick Esterl - Bavaria, Kansas
Dean Holbert - Concordia, Kansas

Staff present:
Art Griggs - Revisor of Statutes
Paul Purcell - Legislative Research Department
Jerry Stephens - Legislative Research Department

Senate Bill 282 - Adoption and relinquishment of children, rights of putative father. Senator Meyers, one of the authors of the bill, appeared in support of the bill. She distributed to members of the committee a procedure sheet and flow chart that had been prepared by the Department of Social and Rehabilitation Services.

Jerry Coppel testified in support of the bill. He stated present Kansas statutes ignore the father of a child born out of wedlock. A copy of his statement is attached hereto.

Rita Winter appeared in support of the bill. She stated numerous individuals had signed a petition in support of the bill.

Bernard Treiber, the unwed father of a child, appeared in support of the bill. He explained his particular situation and discussed it with the committee. Copies of articles from newspapers about his case are attached hereto.

continued -

CONTINUATION SHEET

Minutes of the Senate Committee on Judiciary February 17, 19 78.

William Davitt, the lawyer from Wichita who represents Mr. Treiber, appeared in support of the bill. He distributed copies of hand-outs to members of the committee, copies of which are attached hereto. Committee discussion with him followed.

Mr. Finocchario testified in support of the bill. He stated the bill is fair to the putative father, the unwed mother, and adoptive parents.

Gwen Osborn testified in support of the bill.

Martha Fletcher spoke in support of the bill.

Kay Rierson spoke in support of the bill, and said she had petitions signed by a great number of persons supporting the bill.

Senate Bill 733 - Establishing procedure for extension of redemption period for real estate sold at judicial sale. Senator Norvell, the author of the bill, spoke in support of it. He explained that it would extend the redemption period of farms after a foreclosure action. He suggested an amendment to the bill to extend it to 1980 instead of 1979. He stated the number of farm foreclosures in the state is growing, and the rate this year is 2½ times greater than that of last year.

Dean Jones spoke in support of the bill, and explained serious problems that farmers are presently experiencing. He said this bill would help the younger farmers, who are losing control of the farm land, often to foreign buyers. Committee discussion with him followed.

Perry West spoke in support of the bill. He said the passage of this bill would help farmers through the present crises.

Dick Esterl spoke in support of the bill. He stated he started in the farming business ten years ago, and stated if he had to start out today, it would require an investment four to five times as large as his original investment.

Dean Holbert testified in support of the bill. He related his experiences and difficulties he has been encountering. Committee discussion with him followed.

Senator Norvell stated that if it were possible to constitutionally do so, he would prefer the bill to apply only to farm land. Committee discussion with him followed.

The meeting adjourned.

These minutes were read and approved by the committee on 4-6-78.

2-17-78

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Bernard M. Treiber	Route H Parsons Kansas.	C of C
Kay Kierson	5171 S. Spruce Wichita	Citizens Action League
Dean Holbert	RR1 Concordia Ks	
Don M Jones	RR 2 Lincoln Kansas	
Perry K. Stat	RR 2 Lincoln Kansas	
Rick Estes	Ray Treiber RR 3 Parsons Kans Bavaria, Ks.	
Jay Harms	Topeka KCCOA	
Stan Teasley	2714 Epworth Hays, Kans	
June Teasley	"	
Terri Mitchell	1641 NE 46th Topeka	
Brenda J. Hundley	3703 N. Kans. Ave. Topeka, Ks.	
Pam Hales	500 NW 48th St Terr Topeka, Ks.	
Mary Lannin	6301 W. 66th Ter. O.P.	
Martha Fletcher	Fam & Chn Serv. 5750 W. 95th O.P.	
Louis Trosclair	Catholic Social Service 415 N 15th KCK	
Lenny G. Logsdon	Box 517 Wichita, 67201	Kans. Children's Service League
Ellen Richardson	Box 5314 Topeka 66605	"

GUESTS

SENATE JUDICIARY COMMITTEE

NAME	ADDRESS	ORGANIZATION
Sister Rose Treiber	St. Paul, Ks	
Rita Winter	Andale, Ks	

Adoption: Constitutional Rights of Fathers of Illegitimate Children

Without notice to the biological father, J. T. Lewis was placed for adoption. Six months later the father, acknowledging paternity, petitioned for a hearing to determine the child's custody. Following the petition's denial, the father sought a writ of habeas corpus in the Wisconsin Supreme Court. The writ was denied on the ground an unwed father has no parental rights because state law requires only the unwed mother's consent to an illegitimate child's adoption.[1] On appeal the United States Supreme Court vacated the judgment and remanded[2] for further consideration in light of a recent decision[3] requiring an unwed father's parental rights be protected.[4] On remand the Wisconsin Supreme Court recognizes the unwed father's constitutional right[5] to notice before a hearing to terminate parental rights. *State ex rel. Lewis v. Lutheran Social Services*, 207 N.W.2d 826 (Wis. 1973).

Most states, including Kansas,[6] authorize adoption of illegitimate children with only a mother's consent.[7] This view reflects the common law position[8] that a father has no legal claim upon an illegitimate child.[9] *Stanley v. Illinois*[10] expressly extends parental rights to fathers of illegitimate children. *Lewis* also departs from the common law rule by recognizing those fathers' constitutional right to notice before termination of parental rights.[11]

1. State *ex rel.* Lewis v. Lutheran Social Serv., 47 Wis. 2d 420, 178 N.W.2d 56 (1970).
2. Rothstein v. Lutheran Social Serv., 405 U.S. 1051 (1972). The Court remands requesting the Wisconsin Supreme Court give ". . . due consideration for the completion of the adoption proceedings, and the fact the child has apparently lived with adoptive family for intervening period."
3. Stanley v. Illinois, 405 U.S. 645, 658 (1972). The Court concludes: "[A]ll Illinois parents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody. It follows that denying such a hearing to Stanley and those like him while granting it to other Illinois parents is inescapably contrary to the Equal Protection Clause."
4. *Id.*
5. U.S. CONST. amend. XIV, § 1 provides in pertinent part: "No State shall . . . deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law."
6. KAN. STAT. ANN. § 59-2102(2) (1964) provides: "Before any minor child is adopted, consent must be given to such adoption . . . by the mother of an illegitimate child. . . ."
7. See ALA. CODE tit. 27, § 3 (1958); ALASKA STAT. § 20.10.020 (1962); ARIZ. REV. STAT. ANN. §§ 8-103, 14-206 (1956); CAL. CIV. CODE § 224 (West 1954); CONN. GEN. STAT. ANN. § 45-61 (1958); FLA. STAT. ANN. § 72.14 (1964); MO. ANN. STAT. § 453.030 (Vernon 1949); MONT. REV. CODES ANN. § 61-205 (1947); OHIO REV. CODE ANN. § 3107.06 (Anderson 1973); PA. STAT. ANN. tit. 1, § 411 (Supp. 1973); *cf.* COLO. REV. STAT. ANN. § 22-4-7 (1963).
8. The common law position is reflected by *In re* M., 2 Q.B. 479 (1955) which upheld a statute requiring the consent of "every person . . . who is a parent . . . of the infant," but the court did not require consent of the father of the illegitimate child because he is not a "parent" within the meaning of the statute.
9. In Thomas v. Children's Aid Soc'y, 12 Utah 2d 235, 364 P.2d 1029 (1961), the court held the putative father of an illegitimate child occupied no recognized paternal status at common law and under Utah statutes and the statutes dispensing with the father's consent is not unconstitutional. *See* State *ex rel.* Lewis v. Lutheran Social Serv., 47 Wis. 2d 420, 429, 178 N.W.2d 56, 63 (1970).
10. 405 U.S. 645 (1972).
11. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 12, 207 N.W.2d 826, 833 (1973).

In addition to present Kansas adoption requirements,[12] attorneys handling adoptions of illegitimate children now must prove parental rights of fathers, as well as mothers, are terminated legally.[13] Attorneys must insure unwed fathers receive at least constructive notice of pending adoption hearings[14] to comply with fourteenth amendment due process and equal protection requirements.[15]

Lewis[16] considers *Stanley*'s effect on Wisconsin adoption statutes.[17] In *Stanley* the mother and father lived together intermittently for 18 years without being legally married.[18] During that time they had three children.[19] When the mother died the children were declared state wards and placed in guardianships without any hearing to determine the father's fitness. Under Illinois law unwed fathers had no parental rights.[20] The father, however, contended he had never been proved unfit and was therefore entitled to his children's custody.[21] The Supreme Court holds due process requires a hearing to determine an unwed father's parental fitness.[22] The presumption an unwed father is unfit denies constitutional due process.[23] In addition the Court holds Illinois denies unwed fathers equal protection by giving other parents notice of a hearing to determine parental rights.[24]

Although the facts in *Lewis*[25] differ from those in *Stanley*, both courts recognize the need to protect an unwed father's interest in his children.[26] By broadly interpreting *Stanley*, *Lewis* requires notice of adoption proceedings to protect all parental rights of unwed fathers.[27]

12. KAN. STAT. ANN. § 59-2280 (1964) provides: "The [adoption] hearing may be with or *without* notice, as the court shall direct. . . ." (Emphasis added.) KAN. STAT. ANN. § 59-2278 (1964) requires notice be sent to all "interested" parties but fails to recognize an unwed father as an interested party. KAN. STAT. ANN. § 59-2103 (1964) provides: "Upon adoption all rights of the natural parents to the adopted child . . . shall cease. . . ."

13. Hession, *Adoptions After "Stanley"—Rights For Fathers of Illegitimate Children*, 61 ILL. B.J. 350 (1973).

14. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 8, 207 N.W.2d 826, 830 (1973).

15. U.S. CONST. amend. XIV, § 1.

16. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 9, 207 N.W.2d 826, 831 (1973). In reaching its decision the court explicitly denies the "best interest of the child" doctrine's applicability. The Wisconsin court recognizes the value of the "child's best interest" test in custody decisions but finds it an unimportant factor in parental termination cases and refuses to weigh the interests of the child in the decision.

17. *Id.* at 7, 8, 207 N.W.2d at 829, 830.

18. ILL. REV. STAT. ch. 89, § 4 (Supp. 1973). Illinois no longer recognizes common law marriages.

19. Only two children were involved in the litigation.

20. Stanley v. Illinois, 405 U.S. 645, 651 (1972). See ILL. REV. STAT. ch. 37, §§ 701-14 (1972). The act defines parents as ". . . the father and mother of a legitimate child, or the survivor of them, or the natural mother of an illegitimate child. . . ." The father of an illegitimate child is not included. ILL. REV. STAT. ch. 106¾, §§ 51-66 (Supp. 1973) provide a putative father has no rights to the custody and control of his child.

21. Stanley v. Illinois, 405 U.S. 645, 648 (1972).

22. *Id.* at 658-59.

23. *Id.*

24. *Id.* at 659.

25. In *Lewis*, the child was conceived in California, the parents lived together for a few months in Oregon and the mother came home to Wisconsin.

26. Stanley v. Illinois, 405 U.S. 645, 652 (1972); State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 10, 207 N.W.2d 826, 832 (1973).

27. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 207 N.W.2d 826 (1973).

In applying *Stanley*, *Lewis* holds Wisconsin statutory procedure for terminating parental rights unconstitutional.[28] The court recommends amending the statute[29] to make notice requirements apply to both unwed fathers and mothers.[30] Either unwed parent's petition will require personal or constructive service on the other parent.[31] The Wisconsin court recognizes the need for more than the unwed mother's consent to terminate both parents' rights.[32] The *Lewis* holding indicates the majority of states[33] may need to make statutory changes, because they fail to recognize a father's rights regarding his illegitimate children. Similarly, those states recognizing the father's right, but subordinating it to the unwed mother's, may have unconstitutional laws.[34] *Stanley* rules the Illinois Adoption and Paternity Acts'[35] denial of unwed fathers' parental rights unconstitutional on due process grounds; *Lewis* holds corresponding Wisconsin statutes[36] unconstitutional for parallel reasons. The language in these two state statutes is similar to Kansas adoption laws.[37] Therefore, *Lewis* and *Stanley* strongly indicate that Kansas statutes need amendment to comply with constitutional requirements.[38]

The crucial question of *Stanley*'s retroactive effect is left unanswered. Hopefully, *Lewis* eliminates this uncertainty. The Constitution neither prohibits nor requires retrospective effect for decisions expounding new constitutional rules.[39] The Wisconsin court[40] indicates (in dicta) *Stanley* was not meant to have retroactive application[41] but only applies to pending adoptions where the natural father has been denied rights that he now asserts.[42]

The number of unwed fathers making an issue of their rights is diffi-

28. *Id.* at 8, 207 N.W.2d at 830.

29. Assembly B. 915, Wis. Legislature (1973); S. 566, Wis. Legislature (1973).

30. Prior law was WIS. STAT. ANN. § 48.42 (1957).

31. *Id.*

32. WIS. STAT. ANN. § 48.84(1)(b) (Supp. 1973). "Persons required to consent to adoption. The mother alone, if the minor was born out of wedlock. . . ." WIS. STAT. ANN. § 48.84(3) (Supp. 1973). The consent of the father of a minor born out of wedlock shall not be necessary even though the father has married the mother, if prior to the marriage, the mother's parental rights were legally terminated or she consented to the adoption. . . ." These statutes are to be amended by proposed Assembly B. 915, Wis. Legislature (1973) and S. 566, Wis. Legislature (1973).

33. Statutes cited note 7 *supra*.

34. *See In re* Guardianship of Smith, 42 Cal. 2d 91, 265 P.2d 888 (1954); *In re* Mark T., 8 Mich. App. 122, 154 N.W.2d 27 (1967); *In re* Shady, 264 Minn. 222, 118 N.W.2d 449 (1962); *In re* Guardianship of C., 98 N.J. Super. 474, 237 A.2d 652 (Juv. and Dom. Rel. Ct. 1967); Commonwealth *ex rel.* Human v. Human, 164 Pa. Super. 64, 63 A.2d 447 (Super. Ct. 1949).

35. ILL. REV. STAT. ch. 37, §§ 701-1 to 708-4 (1972); ILL. REV. STAT. ch. 106¾, §§ 51-66 (Supp. 1973).

36. WIS. STAT. ANN. §§ 48.42, 48.84(1)(b), 48.84(3) (Supp. 1973).

37. KAN. STAT. ANN. §§ 59-2102, -2278 (1964).

38. S. 755, Kan. Legislature (1974).

39. Linkletter v. Walker, 381 U.S. 618 (1965).

40. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 207 N.W.2d 826 (1973). The child had lived with the adoptive parents four years before the Wisconsin Supreme Court ruled the adoption invalid.

41. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 7, 207 N.W.2d 826, 829 (1973). Other cases citing *Stanley* do not address themselves authoritatively to the question of retroactivity. *See* Gomez v. Perez, 409 U.S. 535 (1973); La Fleur v. Cleveland Bd. of Educ., 465 F.2d 1184, 1187 (6th Cir. 1972).

42. State *ex rel.* Lewis v. Lutheran Social Serv., 59 Wis. 2d 1, 7-9, 207 N.W.2d 826, 829-30 (1973).

cult to estimate.[43] Unfortunately, the new requirements will place a great burden on adoption agencies, attorneys and courts. Much worse, however, is the possiblity the unwed mother's embarrassment and inconvenience may prevent some children from being placed for adoption. The time and expense to serve notice may jeopardize the child's best interest.

In the past an illegitimate father's consent was not essential to a valid adoption.[44] In *Stanley* the United States Supreme Court held an unwed father has an interest in the custody of his children equal to any other parent's.[45] *Lewis* protects this interest by extending to every unwed father the constitutional right to notice of adoption proceedings before termination of parental rights. This extension finds its justification in fourteenth amendment due process and equal protection rights.

Ray L. Connell*

43. Interview with Peggy Baker, Kansas Welfare Department, in Topeka, Kansas, Jan. 24, 1974. Adoption petitions filed in Kansas in 1972 numbered 1249. Ninety percent involved illegitimate children. In the first six months of 1973, 639 adoption petitions were filed; 508 of those children were born out of wedlock.

44. *In re* M., 2 Q.B. 479 (1955).

45. Stanley v. Illinois, 405 U.S. 645 (1972).

* Edited by Jay W. Vander Velde

Constitutional Law: Establishment of Rel

The Fraternal Order of Salt Lake City's courthou ments and other symbols,[1] lic expense. Plaintiffs cha ment and seek removal of fendants from permitting on public land. The trial prohibited by the establi amount of establishment be levied to support reli Court of Appeals for the test utilized by the trial purpose nor effect to be not constitute establishm of the Eagles is a frater substantial secular attribu element. *Anderson v.* (1973).

The holding illustrate ing that a monument on

Religion is a subje modern history are repleta hardly surprising that the pute and attempted clarifi sion.[9] The Chief Justice of

1. The other symbols re Order of the Eagles, letters of v. Salt Lake City Corp., 475 F.
2. Anderson v. Salt Lake
3. The trial court relies Everson v. Board of Educ., 33
4. The trial court also 330 U.S. 1, 16 (1947).
5. "The test may be stated fect of the enactment? If either enactment exceeds the scope of That is to say that to withstand be a secular legislative purpose religion." Abington School Dist.
6. On the contrary, the tablishment of religion in the tee for Pub. Educ. and Religious Kurtzman, 403 U.S. 602 (1971); School Dist. v. Schempp, 374 U. Illinois *ex rel.* McCollum v. Board
7. *See, e.g.*, Everson v. 1973, at 50.
8. U.S. CONST. amend. I ing an establishment of religion,
9. "The one thing that can

child had been in custody and control of his mother for his entire life and adoption petition was filed some eight years after the mother married; result of adoption was to give full recognition to an existing family unit. Code Ga. § 74–403(3); U.S.C.A.Const. Amend. 14.

3. Parent and Child ⇐1

Relationship between parent and child is constitutionally protected. U.S.C.A. Const. Amend. 14.

4. Constitutional Law ⇐242.1(4)

Equal protection principles did not require that authority of unwed natural father of illegitimate child to veto child's adoption by natural mother's husband be measured by the same standard applied to a divorced father since natural father's interests were readily distinguishable from those of a divorced father; the state could permissibly give the former less authority where although for years prior to adoption proceeding he was subject to essentially the same child support obligations as a married father he never had or sought custody and had never shouldered any significant responsibility for the child's rearing. Code Ga. §§ 74–203, 74–403(3); U.S.C.A.Const. Amend. 14.

Syllabus *

Under Georgia law no adoption of a child born in wedlock is permitted without the consent of each living parent (including divorced or separated parents) who has not voluntarily surrendered rights in the child or been adjudicated an unfit parent. In contrast, §§ 74–403(3) and 74–203 of the Georgia Code provide that only the mother's consent is required for the adoption of an illegitimate child. However, the father may acquire veto authority over the adoption if he has legitimated the child pursuant to § 74–103 of the Code. These provisions were applied to deny appellant, the father of an illegitimate child, authority to prevent the adoption of the child by the husband of the child's mother. Until the adoption petition was filed, appellant had not attempted to legitimate the child, who had always been in the mother's custody and was then living with the mother and her husband, appellees. In opposing the adoption appellant, seeking to legitimate the child but not to secure custody, claimed that §§ 74–203 and 74–403(3), as applied to his case, violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment. The trial court, granting the adoption on the ground that it was in the "best interests of the child" and that legitimation by appellant was not, rejected appellant's constitutional claims, and the Georgia Supreme Court affirmed. *Held*:

1. Under the circumstances appellant's substantive rights under the Due Process Clause were not violated by application of a "best interests of the child" standard. This is not a case in which the unwed father at any time had, or sought, custody of his child or in which the proposed adoption would place the child with a new set of parents with whom the child had never lived. Rather, the result of adoption here is to give full recognition to an existing family unit. Pp. 554–555.

2. Equal protection principles do not require that appellant's authority to veto an adoption be measured by the same standard as is applied to a divorced father, from whose interests appellant's interests are readily distinguishable. The State was not foreclosed from recognizing the difference in the extent of commitment to a child's welfare between that of appellant, an unwed father who has never shouldered any significant responsibility for the child's rearing, and that of a divorced father who at least will have borne full responsibility for his child's rearing during the period of marriage. P. 555.

238 Ga. 230, 232 S.E.2d 246, affirmed.

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U.S. 321, 337, 26 S.Ct. 282, 287, 50 L.Ed. 499.

William L. Skinner, Decatur, Ga., for appellant.

Thomas F. Jones, Atlanta, Ga., for appellees, pro hac vice, by special leave of Court.

Mr. Justice MARSHALL delivered the opinion of the Court.

The issue in this case is the constitutionality of Georgia's adoption laws as applied to deny an unwed father authority to prevent adoption of his illegitimate child. The child was born in December 1964 and has been in the custody and control of his mother, appellee Ardell Williams Walcott, for his entire life. The mother and the child's natural father, appellant Leon Webster Quilloin, never married each other or established a home together, and in September 1967 the mother married appellee Randall Walcott.[1] In March 1976, she consented to adoption of the child by her husband, who immediately filed a petition for adoption. Appellant attempted to block the adoption and to secure visitation rights, but he did not seek custody or object to the child's continuing to live with appellees. Although appellant was not found to be an unfit parent, the adoption was granted over his objection.

In *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972), this Court held that the State of Illinois was barred, as a matter of both due process and equal protection, from taking custody of the children of an unwed father, absent a hearing and a particularized finding that the father was an unfit parent. The Court concluded, on the one hand, that a father's interest in the "companionship, care, custody and management" of his children is "cognizable and substantial," *id.*, at 651–652, 92 S.Ct., at 1212–13, and, on the other hand, that the State's interest in caring for the children is "*de minimis*" if the father is in fact a fit parent, *id.*, at 657–658, 92 S.Ct., at 1215–1216. *Stanley* left unresolved the degree of protection a State must afford to the rights of an unwed father in a situation, such as that presented here, in which the countervailing interests are more substantial.

I

Generally speaking, under Georgia law a child born in wedlock cannot be adopted without the consent of each living parent who has not voluntarily surrendered rights in the child or been adjudicated an unfair parent.[2] Even where the child's parents are divorced or separated at the time of the adoption proceedings, either parent may veto the adoption. In contrast, only the consent of the mother is required for adoption of an illegitimate child. Ga.Code Ann. § 74–403(3) (1973).[3] To acquire the same veto authority possessed by other parents, the father of a child born out of wedlock must legitimate his offspring, either by marrying the mother and acknowledging the child as his own, § 74–101, or by obtaining a court order declaring the child

1. The child lived with his maternal grandmother for the initial period of the marriage, but moved in with appellees in 1969 and lived with them thereafter.

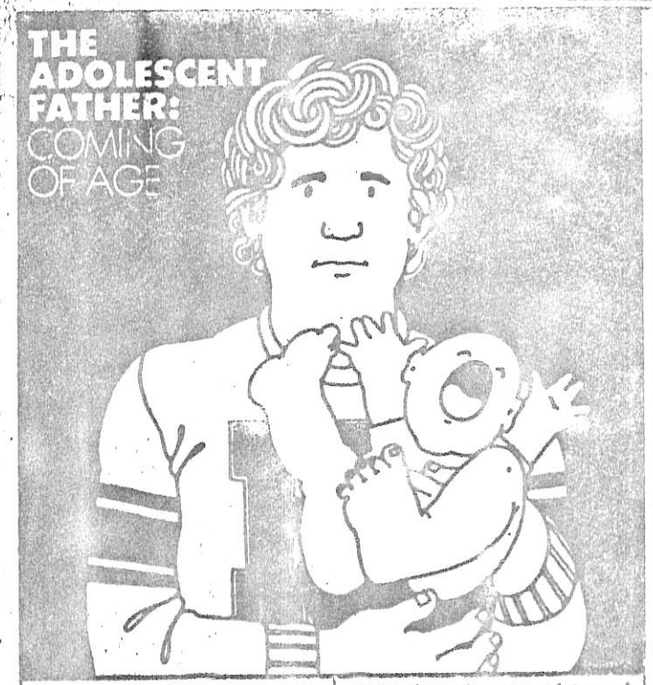
2. See Ga.Code Ann. §§ 74–403(1), (2) (1973). Section 74–403(1) sets forth the general rule that "no adoption shall be permitted except with the written consent of the living parents of a child." Section 74–403(2) provides that consent is not required from a parent who (1) has surrendered rights in the child to a child-placing agency or to the adoption court; (2) is found by the adoption court to have abandoned the child, or to have willfully failed for a year or longer to comply with a court-imposed support order with respect to the child; (3) has had his or her parental rights terminated by court order, see Ga.Code Ann. § 24A–3201; (4) is insane or otherwise incapacitated from giving consent; or (5) cannot be found after a diligent search has been made.

3. Section 74–403(3), which operates as an exception to the rule stated in § 74–403(1), see n. 2, *supra*, provides:

"Illegitimate children—If the child be illegitimate, the consent of the mother alone shall suffice. Such consent, however, shall not be required if the mother has surrendered all of her rights to said child to a licensed child-placing agency, or to the Department of Human Resources."

Sections of Ga.Code Ann. (1973) will hereinafter be referred to merely by their numbers.

THE ADOLESCENT FATHER: COMING OF AGE



Every week three young couples make their way through the litter of Manhattan's 118th Street to attend a rap session at a New York City health center. Here, with expert and sympathetic guidance, they pick their way slowly, carefully through what might have become the debris of their lives.

They are unmarried youngsters who care for each other, and they are about to become parents. All the girls are teenagers. Each prospective father is at most only a year or two older than his girl. One couple lives together. The other young people still live at home with their parents.

These six adolescents have come to "rap" with 23-year-old social-work consultant Gwen McLaughlin, of the New York Urban League's Adolescents' Maternity Program. They hope to learn who they are individually, why they became parents so unexpectedly and so early in life and how they can best accommodate the new babies that will soon be theirs.

The young men—a relatively new concern of society's—are what Gwen McLaughlin and other social workers call putative (or alleged) fathers or, more informally, single or unwed fathers. According to a survey by the Family Service Association of America, the largest number are high-school seniors. The same survey reveals that nine out of ten of them are against abortion.

Their street, one of the grimmest in Harlem, is a cold, hard place. But in the sunny, tree-lined towns of Bergen County, New Jersey, which by and large reflect the income and attitudes of Suburbia, U.S.A., there is also new compassion for the unwed father. "Years ago he was considered a villain, but no more," says Mrs. Alix Palmer of the Family Counseling Service of Hackensack. "We used to think of him as someone who betrayed the girl. He *made* her pregnant. Now he feels accepted, not only by adults but by his peers. He's not trying to be blamed or condemned."

Mrs. Palmer tells of the high-school senior living in one of Bergen County's wealthiest suburbs who had already been accepted at Harvard when he learned he was about to become a father. He went on to Cambridge, as planned. The girl, also a senior, did not drop out of school either. But she did have her child—and on graduation was referred to fondly as "our class mother." It's a far cry indeed from the days when a boy was forced to pay for his mistake and a young girl wouldn't have dreamed of staying in her hometown to have her child.

It wasn't until the late '60s that this radical shift in American mores—much of it credited to the honesty and outspokenness of young people themselves and the growing interest in the health of the young unwed mother and her child—made social workers put their sights on the young father in the case, too. As it turned out, he usually had as many emotional problems with the pregnancy he encountered as did the unwed mother. He often had the unrealistic idea that he could marry the girl and take care of the baby with no help from outside. He was usually far from indifferent either to her situation or that of the unborn child. Almost always, the pregnancy was not the result of a casual liaison. Both young people generally believed they were deeply in love.

Further consideration for the plight of unwed fathers stemmed from the U.S. Supreme Court, which upheld Illinois and Wisconsin decisions establishing that these young men have very definite legal rights in adoption and foster-care proceedings. Now caseworkers are scrupulous about obtaining an affidavit from the father certifying his approval if the baby is to be surrendered for adoption.

"The younger the guy is the more he wants to assume the man's role," says Ms. McLaughlin. The eight-year-old Adolescents' Maternity Program serves New York City's five boroughs. Some 286 pregnant teenagers receive health care and training, social-service counseling, as well as prenatal and postpartum care for both themselves and their babies. Counseling continues until the baby is a year old. Couples may also attend peer-group sessions and health-care classes where birth-control advice and basic biology are emphasized. They may even get as far as the delivery room together if they wish, although most of the young men find that their courage fails after the early stages of labor.

"Our program with boys sort of evolved around nineteen sixty-eight," says its director, Beatrice Walker. "We began to realize we couldn't serve the girl alone. She was emotionally dependent on the boy and he, too, was deeply involved—not the unconcerned culprit society believed him to be. In fact it was he—the boy of seventeen to nineteen—who usually brought the girl for her first appointment.

"Many of these boys make good fathers. And we now know most of these births are not *really* accidents. That's why we try to make the couples aware of why they chose pregnancy as a mode of action. We try to get them to see themselves first as individuals and then as parents. For what we have at stake here is the most precious thing of all—human life."

—NORMA HARRISON

HELPING WIDOWS GET THEIR DUE

When there's a death in a family, substantial financial benefits sometimes go unclaimed because nobody remembers to file for them or knows that they are there. Now a new bank service helps survivors search out and claim all the financial benefits that may be due them from such diverse sources as retirement funds, social security, union and other pensions, profit-sharing plans, credit-life insurance (insurance that pays back outstanding loans), veterans' benefits, workmen's compensation, teachers' annuities and railroad retirement funds.

The service is provided free through 381 banks in 30 states, and you don't have to be a customer of the bank to get help. A specially trained officer who knows where to look for often overlooked benefits will show you exactly how to go about claiming them. He'll also provide you with a booklet for recording information about your own will, income tax, insurance, assets and liabilities and survivor benefits so that *your* heirs will know where to look. He will not, however, advise you on legal, tax or insurance matters.

For a national directory of banks that provide this service, write to: SPECIAL ORGANIZATIONAL SERVICES, P.O. BOX S.O.S., ATHENS, TEXAS 75751.

—PATRICIA ROSTEN

THE UNMARRIED FATHER REVISITED

Reuben Pannor, M.S.
Byron W. Evans, M.S.W.

Reuben Pannor, M.S., is Director of Casework and Research, Vista Del Mar Child-Care Service, Los Angeles, California.

Byron W. Evans, M.S.W., is Senior Statistician, American National Red Cross, Washington, D.C.

SUPREME COURT DECISIONS

A recent proliferation of court decisions has focused new attention on the single father. Foremost in important is the STANLEY vs. ILLINOIS decision of the U.S. Supreme Court, decided on April 3, 1972. Prior to STANLEY vs. ILLINOIS, the single father had not been a necessary party to any proceeding hearing on the custody of the child.

In the Stanley case, a man and woman had lived together intermittently for 18 years and had three children. Upon the death of the mother, the children were declared wards of the State and placed in foster homes without a hearing regarding the rights of the father. Under Illinois law, fathers who were not married had no standing as parents. This is also true in many other states. In this case, a claim was made on behalf of Stanley that Illinois law denied him equal protection as a single father. The Court held that the denial of a hearing on fitness to single fathers, accorded to all other parents whose custody of their children is challenged by the State, constitutes a denial of equal protection of the law. In effect, the ruling said that Stanley had a right to his day in court. It essentially requires that the rights of single fathers should be protected.

In a subsequent case, ROTHSTEIN vs. LUTHERAN SOCIAL SERVICES, a putative father appealed to the U.S. Supreme Court after the Wisconsin court held that he had no parental rights and no right to notice of any hearing prior to a proceeding in which the mother had consented to the adoption of her child. The child in that case had been placed for adoption two weeks after birth without notice to the father. The father petitioned the county court for a hearing and swore to his paternity. The court denied the petition. When this case came to the U.S. Supreme Curt, the decision of the Wisconsin Supreme Court was vacated and the case remanded for reconsideration in light of STANLEY vs. ILLINOIS.

In another case, SLAVEK vs. COVENANT CHILDREN'S HOME, a single father sought to obtain custody of a child who had been born out of wedlock and subsequently placed for adoption by a licensed adoption agency. The adoption had been finalized without notice or consent of the father. The lower court held that the Illinois Adoption Act precluded the father of an illegitimate child from asserting any rights to the child in such proceedings. Citing the Stanley and Rothstein cases, the Court vacated the judgment and the case was remanded for further consideration in light of STANLEY vs. ILLINOIS.[1]

EFFECTS OF COURT RULINGS

The result of these decisions has been to create a very confusing, if not chaotic, situation in which there are as many interpretations of these decisions as there are states in the union. Added to this is the fact that in many states each county has different interpretations of the meanings and implications of these rulings. What is becoming very clear is that the problems associated with births to couples that are not married are, in fact, primarily social problems which do not lend themselves to easy and simple legalistic solutions. This was one of the conclusions reached by the researchers at Vista Del Mar, a child care service agency in Los Angeles. In a study initiated in 1963 through funds granted by the U.S. Department of Health, Education and Welfare, researchers at Vista Del Mar studied the problems of single parents, with emphasis on the single father.[2] These findings suggested that legal opinions would be forthcoming and urged agencies to develop services for single fathers. Unfortunately, agencies throughout the country have been slow in reaching out to the father and successfully involving him.

Although the ultimate effects of the Supreme Court decisions may result in uniform laws which would protect the rights of all parties involved without jeopardizing the rights of a child for whom adoption may be the best plan, the court decisions

have made it clear that the rights of the single father can no longer be disregarded. Thus, social agencies, both public and private, are faced with the need to accord single fathers rights heretofore denied them.

The pursuit of these rights may have both positive and negative effects upon others, mainly the child born to single parents and the child's mother. Some fathers, of their own volition or with the aid provided by social agencies, will exercise these rights by establishing paternity, legitimizing the child, and by giving consideration to other alternatives such as adoption, or working out some solutions that will be in the best interest of all concerned. Single fathers who do not choose to exercise their rights will lose them. The decision in STANLEY vs. ILLINOIS made this clear in stating: "...this (STANLEY vs. ILLINOIS) creates no constitutional or procedural obstacle to foreclosing those unwed fathers who are not so inclined."[3]

Adoption agencies are most immediately affected by these recent court decisions and are seeking resolution to the questions regarding legislative implementation. A central issue is how to protect the rights of the father and at the same time protect the rights of the mother and the child. There is always the possibility, at least in the immediate future, that concern with legalities could result in harmful plans for the child, or undue delays in placing a child for adoption. In this regard, it would seem that agencies could share some of the risks involved with the adoptive family and make an earlier placement, pending their pursual of the necessary legal step to locate the father. Taking into account the sharp drop in the availability of infants for adoptions, agencies ought to be able to select families who could accept these risks. Questions arise regarding how to reach the single father and when to do so, how to learn his name, and how to involve him in planning for the child.

In attempting to conform to the Supreme Court ruling, states are drafting legislation that would protect the rights of the single father and at the same time follow procedures that would legally meet adoption requirements.

The thrust appears to be threefold:

1. Obtaining the name of the father, reaching him, and obtaining his release when adoption proceedings meet with the approval of both parents.
2. Obtaining the name of the father and *attempting* to reach him when efforts to do so through the mother or the agency are unsuccessful. In these instances, certified mail is being used to notify him of the situation and his rights, with instructions on how to proceed. Failure of the father to respond within some specified period, or a response of denial of paternity, causes him to relinquish all rights and the single mother is free to continue with the adoption. If the father's address is unknown, publication is required.
3. In those instances where the mother refuses to name the father, or where his name is unknown, publication is also followed, again with a time limit on when a response must be received to assure his rights.

The response to these procedures has varied, with states handling the subject of publication differently. Some mothers have kept their children rather than agreeing to publication. In some instances the name of the father *or* mother is published. In other states, the name of the child only is published as a way of maintaining confidentiality. It would appear, however, that refusal to permit publication would leave only one alternative, that of keeping the child.

SOCIAL WORKERS AND THE FATHER

Thus, adoption agencies must of necessity involve the single father in the adoption process in ways specified by each state. For many agencies and workers this brings a new component into social work practice. Questions on how to obtain the name of the father and how to reach him will undoubtedly be raised. Central to the study done at Vista Del Mar was the development of principles and guidelines for reaching and involving unmarried fathers. Subsequent to the publication of the book *The Unmarried Father,* Vista Del Mar continued to work with fathers who were not married and found that the principles and guidelines continued to be valid and substantiated by other adoption agencies that have followed the same procedures.[4,5]

In the Vista Del Mar study, male social workers counseled with fathers, and female social workers counseled with mothers. Agencies that cannot implement such a staffing pattern are urged to use available staff in the most creative ways possible. It is better for the same worker to see both parents rather than not see the father only because two workers are not available.

Attitudes of social workers and others working with single parents are paramount in the process of reaching and involving the father. The social worker should be aware of his or her own attitudes, knowledge, beliefs, and prejudices regarding the possibilities and importance of involving the father. Aside from legal aspects, reaching and involving

him can be very important to the father, mother, and future of the child.

In involving fathers, the following principles are important to consider:

1. Constructive involvement of the father begins with a conviction that the mother should be helped to involve the father in the agency's effort on their behalf.
2. Recognition of the ambivalence in the attitude of the father and mother toward each other enables the social workers to utilize the positive aspect of the relationship between the couple in initially involving them both.
3. The first contact between the social worker and the father is of extreme importance since it is, at this point, when the social worker demonstrates acceptance of the man as a person in his own right—and not simply because the law says he has rights.
4. The social worker must be prepared to introduce the concept that self-help is developed by facing the situation rather than by running from it, and that this represents a healthier, more mature approach. The initiative in spelling out how this may be accomplished is taken by the social worker.

Thus, in those situations where agencies are embarking upon plans to interview single fathers (although the motivating force be legal in nature), agencies would be well advised to encourage social work staff to deal with attitudes they may have relative to the father. Social workers serving the mothers will find it difficult to persuade them to reveal the name of the father if they are uncomfortable with the concept of involving the father, or if they project the feeling that the father is unworthy because he fathered a child out of wedlock. Like others, social workers are products of society and by carefully and candidly discussing their own attitudes, prejudices may be expressed which can then be dealt with to establish a more positive attitude, which is necessary in working with single parents.

REACHING THE SINGLE FATHER

Readers who are acquainted with social service agencies that do provide services to single parents will perhaps be familiar with the difficulties often associated with the identification and location of the single father. Though admittedly difficult, in the experience of the authors it is generally possible. (In a study conducted at Vista Del Mar, 92 percent of the single mothers named the father, a not-too-surprising statistic when one considers that many of the relationships from which children result are more than casual.[6]) Here again, some principles may be helpful:

1. The social worker should feel comfortable in asking for the name of the father. Experience in the Vista Del Mar study showed that a matter-of-fact attitude by the worker was crucial. Though this may seem self-evident, it is important and again stresses the need for the worker to be comfortable in asking such a question. Society has hidden or rejected the father for so long that bringing him into the open in a matter-of-fact manner could be difficult, at least at first, for some workers.
2. An initial denial of knowledge by the mother may require postponing the subject until more rapport is accomplished. In any event, an initial denial should not be accepted until subsequent inquiries satisfy the worker that the mother does indeed not know the father's name. Too many "no's," particularly those accompanied by projection of feelings of defensiveness or antagonism toward the father—or perhaps fear—should be a warning to the worker that the techniques or the worker's attitudes may require modification.
3. The social worker should be able to assist the mother in realistically assessing reasons for naming or not naming the father. Frequently both single parents harbor many fantasies about each other which require exploration and resolution before solid decisions can be made about continuing or terminating relationships. At the same time, decisions about the future of the child are being formulated.
4. In cases where adoption is being considered, the need for adoptive parents to have information about the birth parents must be stressed. Adoptive parents are now requesting fuller information about both birth parents which can help them in answering questions the adopted child inevitably will ask about his background. This can be extremely important to the child's adjustment. An amorphous picture of a father or mother can conjure up all sorts of fantasies, hindering the development of a positive self-image as the child grows up. It should be noted here that adoptees in increasing numbers are returning to agencies to seek more information about their backgrounds.
5. The social worker should recognize that the mother may need reassurance of her positive feelings toward the father, that she must have seen some good qualities in the father (particularly where the relationship is of long-term duration). This can help the mother deal

with ambivalences stemming from her experience, which in turn can help her focus attention on plans for the baby. As with the father, it is important that the mother not base her decision about plans for the baby on punitive action against the father. The baby's future must not be a pawn of either party.

6. And finally it may be necessary to explore with the mother legal implications resulting from failure to name the father. The reality of the law must be dealt with in a non-threatening, open manner.

Not infrequently, and particularly in situations where the parents are in their teens, the parents of one or both the teenage parents will raise objections to the father's involvement. Reasons are varied: some are a part of the culture built up over a period of time. For example, fathers of teenage fathers have been known to take the attitude that "the woman is a tramp" and he is better off to forget her, flee the scene: or, in fact, he may even question how his son knows he is the father. "If she was free with you, couldn't she have been free with a lot of other guys?" Or another: parents of single mothers have been known to attempt to stop efforts to reach the father because "he is no good and hasn't been seen since" or "hasn't he done enough damage already?" Although the agency will be concerned primarily with the single parents, the need to gain cooperation of *their* parents may be very important, particularly where the young people in question are teenagers still living at home.

Joint sessions with the mother, her parents, and the caseworkers for the couple are helpful. This is an especially valuable approach for those cases in which the single mother and her parents do not understand reasons for, or are opposed to, the father's involvement.[7] Some of the benefits of such an approach may be:

1. Seeing both the male and female caseworkers realistically brings out the fact that two people, a woman *and* a man, are involved in the problem.
2. It makes possible a clarification of agency objectives.
3. It demonstrates the joint cooperative, integrated approach.
4. It helps caseworkers see the situation in its totality.
5. It demonstrates validly and—dramatically, for the mother's parents and the mother herself—the fact that both she and the father are taking equal responsibility.
6. It takes the problem out of the realm of fantasy and places it in a reality context for all concerned. (Parents of single mothers have been known to encourage keeping the baby, with voiced intent of assuming responsibility for raising the baby. These expressions may well be fantasy-oriented, and joint sessions aid in exploring motives and resources.)

In working with parents who are particularly resistive, the following points are suggested as ways to emphasize the importance of involving the father:

1. The onus of responsibility can be shared between the mother and father.
2. Handling the relationship and feelings between the couple is better accomplished in the open, with the helping controls given by the agency's professional staff.
3. A better and more wholesome opportunity for helping the mother resolve her feelings can be provided.
4. A better decision about the future of the baby is possible.
5. Help for the mother's future plans can be more thoroughly discussed.

INVOLVING THE SINGLE FATHER

Once the mother names the father, the next problem is bringing about his involvement. The most successful method is to enlist the support of the mother to actively encourage the father to seek an appointment with the agency. Assuming the social worker and the mother have talked through the father's involvement, the mother's participation will, based upon experience at Vista Del Mar, result in many fathers initiating interviews. If this method is not successful, the social worker can attempt to reach him by telephone. Once he is contacted, any or all of the following points are stressed by the worker:

1. The call is not from a legal agency or arm of the law but from a *social agency*. (The role of the social agency is emphasized).
2. The agency worker does not have preconceived ideas regarding solutions but will assist in exploring all alternatives.
3. The father's predicament requires help the agency with its body of knowledge and experience can provide.
4. An out-of-wedlock pregnancy is serious and carries with it long-range implications for the father, the child, and the mother.
5. The importance of the father's role in the solution of the problem, by supporting the mother who is already coming to the agency for help, is stressed.
6. Legal implications, such as in statutory rape,

may have to be explained, at the worker's discretion, to impress upon the father the importance of making an appointment with the agency.

7. Although admittedly a last resort, it may be advisable to discuss local statutes concerning single fathers and actions that could be taken to bring about involvement in legal context.

The first appointment is made immediately following the establishment of contact. Following the first interview, a telephone call to the father is reassuring and helps relieve the anxiety that may build up after the interview. Such a call also helps counteract the advice of friends who may urge him not to continue with the agency. A second appointment is made no later than a week after the first, with a reminder by telephone or letter.

If the father cannot be reached by telephone, a letter or telegram may produce results. Sometimes, and this is especially true for teenage parents, it is necessary to contact his parents and involve *them* before he can be seen.

All this presumes the father is local, that is, he lives in the same town as the mother or nearby. As is known, some mothers leave their home community and go elsewhere to have the baby. This may be at the urging of parents, because relationships with the father have terminated, or to protect job or reputation. Hence, interviewing the father becomes impossible, except by letter or long distance telephone. Now that many agencies (public and private) will be setting up plans for interviewing unmarried fathers, we propose that agencies, within the limits of their ability, act as the interviewing arm for one another when single fathers reside within their community. In such instances, it is suggested that the principles cited earlier be followed, with the mother encouraging the father to seek out the designated agency.

If all approaches fail, the agency may have to take other methods stipulated by law. It is stressed, however, that the methods and rationale for reaching the father are in the interests of sound planning, solving relationship problems, and preparing parents for living with the decisions—in other words, social as well as legal. Simply meeting legal regulations overlooks the complexities of single parenthood and the implications in planning for the child.

Although time-consuming, Vista Del Mar workers found that many of the single fathers became sufficiently involved to continue their relationships with the agency until the birth of the baby. This resulted from encouragement by the agency, and encouragement was given for several reasons. In the case of the father, particularly, his role became much more clear when the baby was actually viewed, even to the extent of holding the baby while in the hospital or shortly thereafter. For the first time, the baby became a reality and was no longer a concept. It is the belief of the Vista Del Mar staff that such experiences served to put the baby in proper perspective and helped the father move from fantasy orientation to reality orientation. This in turn had an impact on his attitude toward the mother and toward the child. An example of this was demonstrated in a recent television movie titled "Unwed Father" in which the father wanted to claim his baby for his own until, after the birth, reality took over for fantasy and the father recognized that, for him, adoption was an expression of love, not abandonment of the child.

CONCLUSIONS

In conclusion, legal implications of STANLEY vs. ILLINOIS may in the long run prove advantageous to single parents and their children. The single father has long been overlooked by many social agencies. But this is no longer possible, and the involvement of the father that now becomes necessary by law can result in better social work services. Helping single fathers act in responsible ways must be viewed as a positive step that can have positive effects upon the father, the mother, and the future of the child. The child's welfare should be the overriding consideration as alternative plans are being considered. Nevertheless, the rights of the father who desires and claims competence to care for his child should be protected. In order for the best interests of the child to be protected, the interests of all three parties need to be taken into account. Only when this is done can we hope for viable solutions to problems that have deep roots and affect many lives for years to come.

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4. Platt HK: A Public Agency's Approach to the Natural

2-17-78

Senator Meyers

PROCEDURES FOR SB 282

Forms for notification of pregnancy to the putative father or birth of the child shall be available at

1. All SRS Offices
2. Child Placing Agencies
3. District Courts

These forms will be available to the mother or the attorneys representing the parents or petitioners.

1. Prior to the time the mother signs the consent or relinquishment, she completes the form Notice to the Putative Father of Pregnancy or Birth.
   a. A copy is retained in the local agency.
   b. A copy is sent to the putative father via certified mail or personal delivery advising him he has been named as father of said child.
   c. A copy is sent to the Division of C&Y.
   d. The Division must receive documentation that the putative father received the Notice to the Putative Father of Pregnancy or Birth.
2. Attached to the Notice to the Putative Father of Pregnancy or Birth form will be the form Intent to Claim Paternity.
   a. Putative fathers may also obtain Intent to Claim Paternity forms from
      1. All SRS Offices
      2. Child Placing Agencies
      3. District Courts
3. If the putative father wishes to claim paternity, he must file the Intent to Claim Paternity with the Division of Services to Children & Youth within 30 days of receipt of notice to the putative father of pregnancy/birth.

4. The Division will acknowledge the receipt of the Intent to Claim Paternity with a Notice of Receipt. A copy will be sent to

   a. The putative father

   b. The mother

   c. The placing agency or SRS Office providing services/or

   d. The attorney representing the mother or petitioner.

   e. The District Court if a petition has been filed.

5. If no response is received within 30 days, the Division advises

   a. The placing agency

   b. The attorney representing the parents or petitioners.

   c. The mother

   d. The court is routinely advised whether or not Intent to Claim Paternity has been filed.

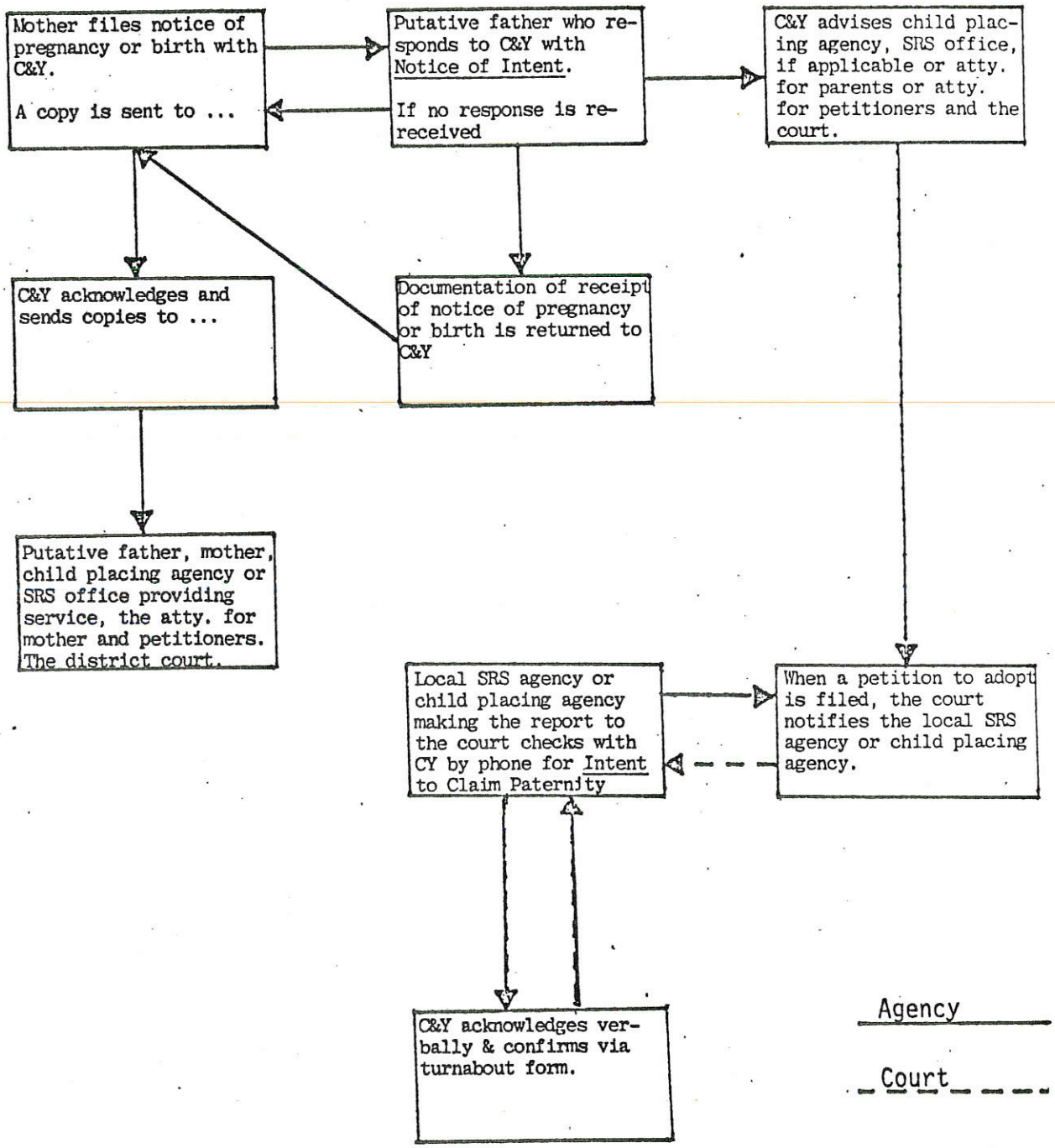
6. At the time the petition is filed the agency completing the court report

   a. Confirms with the Division via telephone that an Intent to Claim Paternity has not been received.

   b. C&Y issues a turn-about form to confirm receipt of an Intent to Claim Paternity.

FLOW CHART

SENATE BILL # 282



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February 17, 1978

STATEMENT OF JERRY J. COPPEL TO THE SENATE JUDICIARY COMMITTEE, TOPEKA, KS

My name is Jerry Coppel. I reside at 340 Covington, Wichita, Kansas and am employed as Executive Director of the Kansas Children's Service League. The opportunity to appear here today is deeply appreciated.

Our ancestors went through the Stone Age and various other ages. I think we are now in the "Age of Rights." Everyone has rights, all kinds of rights, including the right to claim more rights.

In 1972 the United States Supreme Court said that fathers of children born out of wedlock probably had some rights concerning their children. It certainly said that one particular individual had some rights despite a state law that said he did not. Just recently the Supreme Court upheld a similar state law.

Both situations represented extremes. An agency like Kansas Children's Service League rarely is involved in such situations. Most of our experience is with newborn children.

At the present time Kansas statutes ignore the father. Most attorneys, courts, and social agencies are convinced (by the Supreme Court decisions) that the rights of fathers do require recognition. Without a statutory base, the result is a tremendous variety of procedures. The truly conservative among us frequently take the most time consuming route, the Dependent-Neglected petition.

I believe Senate Bill 282 provides a workable base for reconciling the rights of children, mothers, and fathers. The bill does not establish fathers' rights, it provides a standard process by which fathers may claim rights. The individual decisions are left where they should be, in the courts.

I hope you will give Senate Bill 282 favorable consideration and that it becomes law. It will provide an orderly process to what is now chaotic.

Thank you.

THE DEBATE will be broadcast on Wichita radio station KMUW-FM, 89.1, today from 10:30 a.m. to 6 p.m., and Friday from 10 a.m. to 4 p.m.

Sen. James Allen, D-Ala., a treaty foe who is regarded as a wizard in parliamentary strategy, won a ruling that members could filibuster on each of the two treaties that form the canal agreement. But he was rebuffed in seeking to have them voted on article by article.

Leading off the first Senate debate ever broadcast live on radio, chairman John Sparkman, D-Ala., of the Senate Foreign Relations committee said his panel "believes the proposed treaties represent the best agreements obtainable, that they were carefully negotiated and that they will protect our interest in the use of the canal."

Sen. Robert Griffin, R-Mich. — the only member of Sparkman's committee to oppose ratification — led off the anti-treaty response by calling the

(See SENATORS, 3A, Col. 1)

On the Inside

Ned York

Ned York, a bit actor, has been booked on suspicion of murder in the Los Angeles Hillside Strangler slayings. **Page 4A.**

Opponents of the Equal Rights Amendment urge Kansas lawmakers to rescind it. One of the Legislature stories on Pages 12A-14A. Another group protests the ERA in Washington. **Page 10A.**

AP Photo

WALKING BOXES CONTAIN YOUTHS WHO OUTSMARTED SNOW AND WIND
. . . They were traveling from Cumberland, R.I., to neighboring Woonsocket

Unwed Father Hopes To Stop Baby's Adoption

By JULIE CHARLIP
Staff Writer

Bernard Michael Treiber is an unwed father. He has never seen his baby, and doesn't know if it's a boy or girl. But he wants custody of the child.

Treiber, 25, of White Mound, Kan., a small town near Parsons, is going to court to fight for custody of his month-old child.

The mother, Jan Risner, 20, already has signed away her rights to the baby, and the child has been placed in the home of a couple who want to adopt it, according to court records.

Kansas law is against Treiber, giving all rights to the child's mother. But a U.S. Supreme Court decision appears to give unwed fathers new rights in seeking custody of their children.

TREIBER SAID HE and Risner lived together for about three months. He said they discussed having children and getting married.

The couple split up later, and Treiber said he didn't know at the time that Risner was pregnant.

Just before Christmas, Treiber said, he received a letter from the Lutheran Social Service, informing him that Risner was pregnant and that she intended to give up the child for adoption.

Treiber said he visited Risner twice at the Lutheran home in Whitewater, Kan.

"I offered to marry her and everything else," Treiber said. "She turned me down."

When she refused to marry him, Treiber said, he turned to the courts.

ACCORDING TO COURT records, Treiber signed a petition on Jan. 9 seeking custody of the child. In the

(See FATHER, 3A, Col. 2)

region, new blizzard snows heaped 12-foot drifts in the Dakotas, heavy icing knocked out power to thousands of homes and ranches on the Colorado plains and snow fell in northern Florida. Arctic cold persisted in the midlands.

Farther west, another wave of Pacific storms struck northern California early Wednesday and brought some flood warnings. Officials said mudslides had been cleared from the coastal highway but warned that the road would be closed if it started to rain again.

The toll of dead so far this week in the Northeast and across the nation mounted to 65, and the number of weather-related deaths in the winter of 1977-78 climbed to at least 252.

THE BODY OF one victim was found in a partially buried and locked automobile at Cranston, R.I. A medical examiner, unable to get inside, tagged the car and left it.

The first of more than 1,000 Army troops, committed by President Carter to New England's battle for recovery, arrived at a newly cleared Warwick, R.I., airport. A short time later, crews opened a slender emergency runway at Boston's Logan International Airport. Other workers labored to reopen Hartford's airport to welcome the federal airlift.

"We're very happy to see you," Rhode Island Gov. J. Joseph Garrahy told the task force commander of the first Army C-130 cargo plane to set down at T.F. Green Airport in Warwick. "We did handstands and almost a miracle to get the airport open."

After touring the blizzard zone by

(See TROOPS, 6A, Col. 1)

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(See D

Glickman

After Year in Congress, Freshman Responds to

By BETTY WELLS
Of Our Washington Bureau

WASHINGTON — If you ask Dan Glickman to

controversy, maintaine gh visibility in the district, and been respon o his constituents. He has earned high marks in handling the political and public relations aspect of the office."

"assuring himself of future labor support," says Allen.

Senators Settle In for Canal Debate

★ From Page 1

pacts "fatally flawed . . . riddled with ambiguities."

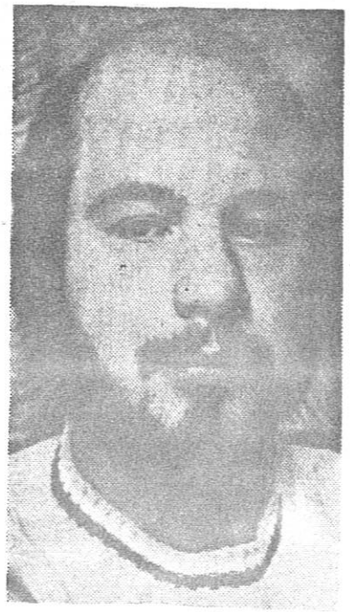
"THE DEFECTS are so serious and basic they cannot be rewritten on the Senate floor," Griffin said in reference to scheduled efforts to write in stronger guarantees for U.S. security rights.

Sen. Bob Dole, R-Kan., who has said he will introduce a number of amendments and reservations that would kill ratification chances, said the United States should not be intimidated by fears Panama would insist on renegotiating the agreements from scratch.

"I cannot . . . accept the proposition that immediate ratification of these treaties is more important than guaranteeing the security of the canal and-or our national interests," Dole said.

Sen. Alan Cranston, D-Calif., countered by arguing the treaties, amended only to resolve the security issue, will ensure the canal "will remain secure, safe, neutral and open to our commerical and military ships . . . now and in the indefinite future."

IN A NATIONALLY televised reply to President Carter's pro-treaty "fireside chat" last week, former California Gov. Ronald Reagan urged rejection of the treaties as "not in the national interest" of the United States.



BERNARD TREIBER
. . . Taking case to public

College-Aid Program Proposed

WASHINGTON (UPI) — President Carter Wednesday proposed a $5.2 billion federal college-aid program that would cover more than 5 million students, including 2 million youths from moderate income families for the first time.

Carter and Secretary Joseph Califano of Health, Education and Welfare said the proposal was an alternative to a $250 tuition tax credit plan backed by some Republican congressmen. "I will not accept both," Carter said.

The program would increase aid by $1.46 billion, or nearly 40 percent over the current $3.8 billion outlay. Increases would come in the form of loans, scholarships and part-time jobs, designed to blunt skyrocketing education costs and related declines in college enrollment.

"TODAY THE COST of sending a son or daughter to college is an increasingly serious burden on America's low- and middle-income families," Carter said.

The average cost of sending a student to a private college is about $4,800 a year and to a public school about $2,500 — an increase of 77 percent in the past decade, the president said.

The program would:

- Expand the Basic Educational Opportunity Grant program to include 3.1 million additional students. A total of 2.8 million students, including at least 2 million from families in the $16,000 to $25,000 income bracket not presently eligible, would be guaranteed $250 grants.
- Create additional jobs for 280,000 students by requesting an extra $165 million from Congress for part-time student jobs with the government paying 80 percent of the salaries.
- Raise family income eligibility from the current $30,000 to $45,000 for the Guaranteed Student Loan Program that subsidizes interest costs and guarantees loan repayme banks.
- Increase the maximium gra low-income students from $1,($1,800.
- Raise the amount of the av grant by $200 for students in fa with incomes between $8,000 $16,000.

Father Wants Custody of Child

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petition, Treiber said that when the baby was born he would pay child support if Risner wanted the child. If she didn't want the child, Treiber said, he wanted to keep it, and would grant the mother visitation rights.

Treiber said he didn't know at the time that the baby was born Jan. 8 — a week earlier than expected — and that on Jan. 10 attorney Kenneth F. Beck, representing a couple who want to adopt the child, filed papers for adoption in probate court.

Court records show that Treiber's papers were filed Jan. 11 in domestic court. Beck was served with a restraining order, putting a temporary stop to any adoption proceedings.

When Beck was notified of Treiber's attempt to get custody, he filed an answer contending that Risner already had agreed to the adoption, and that Treiber has no rights because he is not the common-law father.

Beck, according to court records, told Judge Paul Thomas that the child would remain in the state, and won the right to have the couple keep the child until custody is determined. He also won the right to keep the child's whereabouts secret.

Treiber went to probate court, and tried to get temporary custody, or at least to get the child put in a foster home until the case is settled. He lost.

Beck now is trying to get the case dismissed from domestic court and moved to probate court.

In domestic court, where Treiber originally took his case, hearings are open to the public. In probate court, where adoptions are handled, the proceedings are private.

Treiber wants to take his case to the public.

His chances of winning may be helped by a 1972 U.S. Supreme Court decision.

The court ruled in Stanley vs. Illinois that an unwed father has the same rights to the child that the mother has.

Glickman Rates

Across Kansas

Decision Due on Sale Of Schilling Manor

SALINA — The fate of a 735-unit military housing development that was closed last year could be decided within a month, says Salina City Manager Norris Olson.

The city of Salina is serving as a pass-through agency in dealings between the Lutheran Good Samaritan Centers and the General Services Administration for the sale of Schilling Manor. The development was last used as housing for "waiting wives" and families of servicemen stationed overseas. Last year, it was declared surplus property.

Olson said Good Samaritan Centers is appraising the project and cost of rehabilitating it for use as a retirement center. Olson said GSA will not make public its asking price for Schilling Manor while negotiations are in progress.

He said an Iowa teachers association holds a mortgage on Schilling Manor.

Benton Man Killed in K254 Crash

TOWANDA — A 23-year-old Benton, Kan., man was killed in a one-car accident on K254 just west of Towanda.

The man, whose name is being withheld pending notification of his relatives, was driving east on K254 when his pickup truck crossed to the opposite side of the road, became airborne over a water drainage bridge, and landed on a cement abutment below the bridge. Butler Count[y] [s]heriff's officers said the man died on impact. They speculate[d] [t]hat the accident happened sometime late Thursday night or early Friday morning.

Cause of the accident is unknown, they said.

Unwed Father Case to Be Secret

An unwed father who is fighting for custody of his baby will have to carry his battle into the probate department of Sedgwick County District Court, where hearings will be conducted privately.

District Court Judge B. Mack Bryant moved the case Friday after hearing arguments from the attorneys for the father, Bernard Michael Treiber of South Mound, Kan., and the mother, Jan Risner of Independence, Kan.

Treiber had sought to have his case heard in the domestic department of District Court, where hearings are open to the public.

MEANWHILE Friday, a citizens group calling itself Citizen Action League was preparing to circulate a petition supporting Treiber and seeking to change the state statute on fathers' rights in cases of illegitimacy.

The baby was born Jan. 8, and on Jan. 10 Risner consented to adoption by a couple who are friends of her attorney, Kenneth Beck. Adoption papers were filed in the probate department of Sedgwick County District Court.

Treiber, 25, and Risner, 20, lived together about three months. Treiber has said that he did not know Risner was pregnant when they split up and that he subsequently offered to marry her or to pay child support if she wanted to keep the baby.

Immediately after the birth, Treiber filed a petition in District Court's domestic department seeking custody of the baby if the mother didn't want it and to stop adoption proceedings.

FRIDAY, BECK asked that the case be dismissed.

"My motion," he said, "is to bring order out of chaos. A judge in one department of District Court should not be passing on a case in another part of District Court."

The judge presiding over the adoption should decide the issues involved, Beck said.

At issue is whether Treiber and Risner's relationship constituted a common-law marriage. If it did, as Treiber maintains, Kansas law specifies that consent of both parents is required for a child to be given up for adoption.

In the case of an illegitimate child, the law calls only for the consent of the mother.

TREIBER'S ATTORNEY, William Davitt, contended that the law is unconstitutional and cited, among other things, a 1972 U.S. Supreme Court decision that an unwed father has the same rights to the child as the mother has.

Bryant did not dismiss the case, saying it might come up again, and he refused requests to give Treiber custody, to stop the adoption proceedings and to keep the case in the domestic department.

The Citizen Action League, the group preparing the petition, was formed about a month ago and has 20 to 30 members, said co-founder Kay Rierson.

She said it emerged from a Free University class in community organization.

THE GROUP apparently was planning to direct its petition to the Kansas Senate Judiciary Committee, which is considering changing the statute to give the "putative father" rights in custody of children. Drafting of the petition had not been completed Friday.

Wednesday. Read, 77, talked to children about American heritage and colonial history. His visit is sponsored by the Sons of the American Revolution and Veterans of Foreign Wars.

Adoption Dropped; Custody Fight Looms

An unwed father's fight to keep his baby from being adopted has resulted in the baby being returned to her mother.

Jan Risner, 20, of Independence, Kan., withdrew her consent for adoption on Tuesday and regained custody of the baby.

The baby's father, Bernard Michael Treiber, 25, of South Mound, Kan., fought first to keep his baby from being adopted, and now will have to fight for custody of the child.

Treiber and Risner had lived together for about three months. They split up, and Treiber was informed just before Christmas that Risner was pregnant.

After Risner rejected his offers of marriage, Treiber went to court to stop the adoption.

The same day he filed his petition, the 3-day-old baby was removed from the hospital and put in the custody of a couple that wanted to adopt the child.

On Tuesday, the couple withdrew their petition for adoption.

TREIBER HAD TAKEN his plight to the public. Kansas law does not require an unwed father's consent to put a child up for adoption. A 1972 U.S. Supreme Court decision, however, grants fathers the same rights as mothers.

Risner had said she gave the baby up for adoption because she didn't love Treiber, did not want to marry him and wanted the child to have two parents.

She could not be reached for comment Wednesday on her decision to keep the child.

Risner was not the only one with a difficult choice to make. A friend of the adoptive parents, who declined to be named, said the parents finally decided to give up the baby to end the publicity and the difficulties.

He said the parents had the baby for a month and felt that it would be even more difficult to be forced to give the baby up later, if Treiber won in court.

Treiber's attorney, William Davitt, confirmed that Treiber would continue to seek custody of the baby.

Treiber could not be reached for comment Wednesday.

Contractors' Bias Suit Is Dismissed

TOPEKA (UPI) — A federal judge has dismissed a reverse racial discrimination case filed against the government by a Kansas contractors' group, but he also warned that federal quota systems should not be made permanent.

The Associated General Contractors of Kansas filed suit contending that a federal public works act is un-

Bank Robbed

2-17-78

SAM K. BRUNER
ASSOCIATE DISTRICT JUDGE, POSITION IV

KRISTEN M. WAGGONER
OFFICIAL COURT REPORTER

CHARLOTTE CRANE
SECRETARY-BAILIFF

STATE OF KANSAS
TENTH JUDICIAL DISTRICT
COURTHOUSE
OLATHE, KANSAS 66061

February 6, 1978

TO WHOM IT MAY CONCERN

I understand that S.B. 282 is again before committee for consideration. In February of 1977, I expressed my thoughts on S.B. 282 to several members of the Bar Association of Kansas. It is my understanding that Mr. Benjamin F. Farney desires to address some of the judiciary committee members concerning this proposed legislation. After discussion with Mr. Farney and further reflection upon the current proposal I have prepared an alternative proposal for review.

Regarding the proposed changes to Chapter 38 of the Kansas Statutes Annotated that are included in S.B. 282 I recommend some minor changes in language at page 2 line 48 , the language "to such corporation" should be deleted. At page 2 of S.B. 282 lines 53 and 54 number 4 should read, "the mother and putative father if said putative father is known or can with reasonable diligence be located." Please note that I urge no reference to Section 10 of this act as I do not recommend the implementation of proposed new Section 10. At page 3 line 93 of S.B. 282 "over such" should be changed to "as to such." At page 3 line 94 of S.B. 282 the words "and duties" should be inserted following the word rights. At page 3 line 107 the words "if said putative father is known or can with reasonable diligence be located" should be added. Again deleting any reference to new Section 10.

In the portions of S. B. 282 dealing with Chapter 59 I urge the following in place of all the remining portions of S.B. 282, starting at page 4.

Section 8 K.S.A. 59-2102 is hereby amended to read as follows:
59-2102 (a) Before any minor child is adopted, consent must be given to such adoption:

1) by the living parents of a legitimate child or:

2) by the mother of an illegitimate child or;

3) by one of the parents if the other has failed or refused to assume the duties of a parent for two (2) consecutive years or is incapable of giving such consent or;

4) by the legal guardian of the child or:

5) by the secretary of social and rehabilitation services, a person, or by the executive head of an agency or association, where the rights of the parents have been legally terminated and custody of the child has been legally vested in such person, department, agency or association with authority to consent to the adoption of said child; and

6) by the child sought to be adopted when such child is over fourteen (14) years of age and of sound intellect.

7) In all cases where the petition affirmatively establishes the illegitimacy of the minor child and the minor child's biological father is not a party to the proceedings the court shall require notice of the proceedings to be given to the biological father; or
if the biological father's indentity and whereabouts can not be ascertained after diligent inquiry and search by petitioners, supported by one or more affidavits from petitioners, petitioner's counsel, the natural mother, or the Child Welfare Division of the State Department of Social and Rehabilitation Services, the court may order constructive notice by

by publication. The court may, in its discretion, determine that any attempt at giving notice would be ineffectual and proceed to trial without issuance of either personal or constructive notice upon the biological father.

(b) Consent in all cases shall be in writing. Whenever consent of a parent or parents is necessary it shall be acknowledged and may be acknowledged before the judge of a court of record, and when such consent is acknowledged before such a judge it shall be final and may not thereafter be revoked by the person or persons giving the same. In all other cases the written consent shall be acknowledged before an officer authorized by law to take acknowledgments, and when such consent has been given in writing and has been filed of record in the district court, the same shall be irrevocable, unless the consenting party or parties, prior to final decree of adoption, allege and prove that such consent was not freely and volutarily given. The burden of proof shall rest with the consenting party or parties. Minority of a parent shall not invalidate his or her consent.

Section 9 K.S.A. 59-2277 is hereby amended to read as follows:
59-2277 A petition for adoption shall be filed by the person desiring to adopt the child and shall state:

1) The name and address of the petitioner.

2) The name of the child, the date and place of his or her birth if known, and place at which the child resides.

3) The facts showing the financial ability of the petitioner to assume the relationship.

4) Whether one or both parents are living; and the name and address of those living, so far as known to the petitioner. The names of the parents

may be omitted if the child is under the custody and legal control for the period of its minority of an institution or agency established or authorized by the laws of this state to place children for adoption.

5) If the consent of either or both parents is not obtained, the facts relied upon as eliminating the necessity therefor.

6) The written consents required by this act shall accompany the petition.

New Section 14. (a) In all cases where the putative father appears at the hearing or proceeding on a proposed relinquishment or consent for adoption for the purpose of asserting parental rights, the court shall continue the hearing or proceeding for a period of not to exceed five (5) days and shall set a hearing within the five (5) days to determine the putative father's parental fitness.

(b) A finding of the court of any one of the following is sufficient gound for termination of the parental rights of the putative father: (1) Abandonment of the child after having knowledge of the birth of the child; (2) neglect of the child after having knowledge of the birth of the child; (3) unfitness as a parent; or (4) abandonment of the mother of the child after having knowledge of the pregnancy or birth of the child.

(c) The court may terminate the parental rights of the putative father upon a finding that the putative father has made only token efforts, after having knowledge of the birth of the child: (1) To support or communicate with the child; (2) to prevent neglect of the child or (3) to avoid being an unfit parent.

(d) Except as otherwise provided in this section, the hearing conducted under this section shall be conducted in the same manner as

a hearing conducted to determine whether to permanently deprive a parent or parents of parental rights under the Kansas juvenile code.

K.S.A. 59-2278. Procedure after peition filed.

The written consents required shall be filed with the petition. Upon the filing of the petition the court shall fix the time and place for the hearing thereon, which shall not be less than thirty (30) days nor more than sixty (60) days from the filing of the petition, which time may be extended by the court for cause. Notice shall be given to all interested parties, including, except when the petitioner is a stepparent, the secretary of social and rehabilitation services. Pending the hearing the court may make an appropriate order for the care and custody of the child. Promptly upon the filing of the petition by a petitioner who is not a stepparent the court shall, and when the petitioner is a stepparent the court may, send to the secretary of social and rehabilitation services, a copy thereof and of the consents. Upon receiving such copy, the secretary of social and rehabilitation services, without cost to the natural parents or to the petitioner, shall make an investigation of the advisability of the adoption and report its findings and recommendations to the court as much as ten (10) days before the hearing on the petition.

In making its investigation the secretary of social and rehabilitation services is authorized to make an appropriate examination of the child as to its mental development and physical condition so as to determine whether there are obvious or latent conditions which should be known to the adopting parents, and shall also make such investigation of the adopting parents and their home and their ability to care for the child as would tend to show its suitability as a home for the child, and if

requested to do so by the court, may inquire whether the consents to the adoption were freely and volunatrily made.

Upon the hearing of the petition the court shall consider the report of the secretary of social and rehabilitation services, together with all other evidence offered by any interested party, and if the court is of the opinion the adoption should be made it shall make a final order of adoption, and shall deliver the child to the petitioner, if that has not already been done. In any event the costs of the adoption proceedings, other than those caused by the secretary of social and rehabilitation services, shall be paid by the petitioner.

The proposal as above outlined attempts to afford due process notice of hearings effecting putative fathers and further to establish a statutorily prescribed criteria for dealing with merit arguments presented by putative fathers after appearance. As Mr. Farney and I have discussed the outline above is presented as an alternative to the current S.B. 282. I would be happy to share further thoughts on these matters if the committee would believe it approporate or beneficial.

Sincerely,

Sam K. Bruner
Associate District Judge