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THE 1951 AMENDMENTS TO THE RELINQUISHMENT AND ADOPTION LAWS

PHILIP B. GILLIAM

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Changes in the relinquishment and adoption laws of Colorado were enacted by the 1951 General Assembly in response to widespread demands by the public and child welfare organizations. Illegal relinquishments and a rising *black market* traffic in babies throughout the country is cause for close scrutiny of the safeguards provided in our laws against such abuses.

Colorado is one of the first states to put through curative amendments, and our success was due in large part to broad non-partisan support, and the recommendations received by the Juvenile Court from the State Home for Dependent Children, Catholic Charities, Children's Aid Society, Child Welfare Division of the Bureau of Public Welfare, the Jewish Child and Family Welfare Service, and from various members of the Denver and Colorado Bar Associations.

RELINQUISHMENTS—H. B. 219

House Bill No. 219, designed to put an end to the illegal traffic of selling babies, or making changes in their custody outside of official channels, *black market babies*, was sponsored by Representatives Wade and Carter, and Senators Gambill, Henry, Cheever, Bennett and Davis.

Section 1 of H. B. 219 amends Section 3, Chapter 129, Session Laws of 1949, the *Jurisdiction and Venue* section, by adding a penalty for violation, making it a misdemeanor punishable by fine or imprisonment, or both, for any relinquishment not in accordance with statutory provisions. Parents relinquishing a child and persons receiving a child for adoption are covered by the added language. Excluded from the new penalty provision are those cases where the relinquishment is to "step-parents, grandparent or grandparents, uncle or aunt of said child." Any juvenile or county court, other than a county court in a county wherein a juvenile court is functioning, shall have jurisdiction of all relinquishment petitions.

The penalty clause reads:

Any person who shall violate the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined a sum of money not exceeding Five Hundred Dollars (\$500.00), or imprisoned for a period not exceeding six months, or both such fine and imprisonment.

ADOPTIONS—H. B. 220

House Bill No. 220, sponsored by Representatives Wade and Pellett and Senators Bennett, Cheever and Davis, contains amend-

ments to seven sections of Chapter 106, Session Laws of 1949.

Section 1, amending subsections (2) (b) and (2) (g) of Section 6, *Consent to Adoption*, provides for an exception to the necessity for obtaining consent to proposed adoption from both natural parents in the case of a child born out of wedlock. An additional exception to the necessity for obtaining consent of both natural parents to proposed adoption is made in those cases, where without cause, there has been failure to provide reasonable support for a child for one year or more. It is now provided that consent of the Superintendent of the State Home for Dependent and Neglected Children will be proper consent for the adoption of any child in the care, custody and control of the State Home for Dependent and Neglected Children. This is an alternative provision to consent by the Board of Control of such institution.

Section 2, amending subsection (1) of Section 7 of the 1949 law on *Hearing and Examination*, provides that where the child has been in an adoption home under supervision of a duly licensed child placement agency, the State Home for Dependent and Neglected Children, or any public welfare department, the court may hear the petition for adoption forthwith and grant the adoption decree (as formerly, this also pertains to a child who is a grandchild or stepchild of one of the petitioners). Otherwise, a 30 day waiting period is required between filing of petition and hearing of the adoption petition and examining of interested parties.

Section 3, amending Section 8, *Notice of Hearing*, requires notice of pending proceedings on adoption, in case of a child not a grandchild or stepchild of petitioner or petitioners, to any interested person or agency, unless such person or agency has already consented, and adds the requirement of notice to the adoptive child if over twelve years of age.

Subsections (1) (d) and (2) of Section 9, *Hearing on the Petition*, are amended by Section 4. If, in the discretion of the court, it will serve the best interests of the child, a forthwith decree on the findings may be entered and a final decree of adoption be granted. The former provision for an interlocutory decree to become final at the end of one year is maintained in the amended bill.

The wording under subsection (2) is changed to *any waiting period* in place of the former *such*, to encompass the court's discretionary powers regarding the *forthwith* or *interlocutory decrees*. This change is also made under Section 5, amending Section 10, *Final Decree of Adoption*.

A clause is added by Section 6, amending subsection (2) of Section 11, *Legal Effects of Final Decree of Adoption*, protecting the legal rights or obligations of the natural parent from being divested in those adoptions where the adopting parent is a step-parent married to a natural parent.

Under Section 7, amending Section 15, *Records*, adoption records and papers will be considered *confidential records of the court*, striking the former provision for *sealing*, and such records shall not be *open to public inspection unless by order of court*. A provision also is added by this section that only one docket fee will be assessed in cases involving more than one child.

THE RETAIL MOTOR VEHICLE INSTALLMENT SALES ACT

LOUIS A. HELLERSTEIN
of the Denver Bar

By the enactment of the "Retail Motor Vehicle Installment Sales Act"¹ Colorado became the eleventh state to enact specific legislation covering the installment sale of motor vehicles. The act, which becomes effective on July 1, 1951, is restricted to *installment sales* of such type of personal property. It does not affect nor legislate upon cash sales nor does it affect installment retail sales of any articles of personal property except *motor vehicles* as defined in the act. Transactions other than retail sales are not affected by the act.

The act covers those engaged in the sale of motor vehicles upon the installment plan and financing institutions who purchase or lend upon contracts resulting from such sales and make collection thereon such as banks, finance and loan companies. An individual selling his car is not affected by the act nor are those banks or finance and loan companies who make loans upon the collateral of such contracts or purchase such contracts, but who do not (prior to default of the seller or borrower) collect the payments upon such contracts.

Motor vehicles generally as covered by the act are passenger cars, trucks, station wagons and motorcycles. Road machinery, tractors and agricultural machinery of a similar nature are excepted from the provisions of the act.

If a sale of a motor vehicle upon an installment basis is involved the act applies even though the form of contract purports to be a leasing or bailment when the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the value of the property and bailee or lessee is bound or has the option of becoming the owner thereof.

A finance company or a bank which makes a direct loan to a purchaser to finance the purchase of a motor vehicle is not subject

¹ H.B. 332, approved April 12, 1951, Holland's Legislative Service, p. 448.