

SEC. 2. *And be it further enacted*, That this Act shall take effect June 1, 1947.

Approved April 25, 1947.

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CHAPTER 599.

(Senate Bill 7)

AN ACT to repeal Sections 78, 78A, 79, 80, 81, 82, 83 and 84 of Article 16 of the Annotated Code of Maryland (1939 Edition), title "Chancery", sub-title "Infants", Section 78A thereof having been enacted by Ch. 343 of the Acts of 1945, and to enact in lieu thereof 19 new sections, to be under the new sub-title "Adoption", to be known as Sections 85A to 85S, inclusive, and to follow immediately after Section 85 of said Article; and to add a new section to Article 93 of said Code, title "Testamentary Law", sub-title "Distribution", to be known as Section 139A, and to follow immediately after Section 139 of said Article 93; revising the adoption laws of the State, specifying the legal requirements for the adoption of any person, defining the legal rights and obligations of all parties to a proceeding for adoption; and defining the status of an adopted child for purposes of testamentary distribution, and excepting certain counties from the provisions of this Act.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That Sections 78, 78A, 79, 80, 81, 82, 83, and 84 of Article 16 of the Annotated Code of Maryland (1939 Edition), title "Chancery", sub-title "Infants", Section 78A thereof having been enacted by Ch. 343 of the Acts of 1945, be and the same are hereby repealed.

SEC. 2. *And be it further enacted*, That 19 new sections be and they are hereby added to said Article 16 of the Annotated Code of Maryland (1939 Edition), title "Chancery", to be under the new sub-title "Adoption", to be known as Sections 85A to 85S, inclusive, to follow immediately after Section 85 of said Article, and to read as follows:

ADOPTION

85A. (Legislative Policy.) The General Assembly hereby declares its conviction that the policies and procedures for adoption contained in this sub-title are socially necessary and desirable, having as their purpose the three-fold protection of

(1) the adoptive child, from unnecessary separation from his natural parents and from adoption by persons unfit to have such responsibility; (2) the natural parents, from hurried and abrupt decisions to give up the child; and (3) the adopting parents, by providing them information about the child and his background, and protecting them from subsequent disturbance of their relationships with the child by natural parents.

85B. (Jurisdiction and Venue.) The Circuit Courts of the several counties of this State, sitting in equity, and any court of Baltimore City having equity jurisdiction, shall have jurisdiction of all petitions for adoption under this sub-title. Any such petition may be filed in the county, or in Baltimore City, as the case may be, in which (1) the petitioner or petitioners have their domicil; or (2) the person to be adopted is located; or (3) any lawfully licensed child placement agency, having legal or physical care, custody or control of the person to be adopted is located. Provided, however, that no such petition shall be filed unless either the person to be adopted or the custodian of such person shall be physically within this State and subject to the jurisdiction of the courts thereof.

85C. (Federal Reservations.) All persons residing on property lying within the physical boundaries of any county of this State or within the boundaries of the City of Baltimore, but on property over which jurisdiction is exercised by the Government of the United States by virtue of the 17th Clause, Section 8 of Article I of the Constitution of the United States, and of Sections 31 and 32 of Article 96 of the Annotated Code of Maryland (1939 Edition), shall be considered as residents of the State of Maryland and of the county or of the City of Baltimore, as the case may be, in which the land is situate, for the purposes of jurisdiction in the courts of equity of this State in all petitions for adoption.

85D. (Who May Adopt.) Any person over twenty-one years of age may petition the court to decree an adoption. If the petitioner has a husband or wife living, competent to join in the petition and not separated from the petitioner under circumstances which would give the petitioner a legal ground for divorce or annulment, such husband or wife shall join in the petition. If the marital status of the petitioner changes after the time of filing the petition, and before the time of the entry of a final decree of adoption in the case, the petition shall be amended accordingly, it being the intent of this section that married persons who are living together and competent may adopt a person only upon the joint action of both. Provided, however, that if either the husband or wife is a natural parent

of the person to be adopted, such natural parent need not join in the petition with the adopting parent, but need only give his or her consent to the adoption, as provided elsewhere in this sub-title.

85E. (Who May Be Adopted.) Any person, whether a minor or an adult, may be adopted.

85F. (Petition.) Every petition filed for the adoption of a minor under 21 years of age shall be under oath or affirmation of the petitioner and the titling thereof shall be substantially as follows: "Ex parte in the matter of the petition of..... for the adoption of a minor." The petition or the exhibits annexed hereto shall contain the following information:

(a) The name, sex, date and place of birth of the person to be adopted, and the names and addresses and residences of the natural parents, if known to the petitioner;

(b) The name, address, age, business or employment of the petitioner, and the name of the employer, if any, of the petitioner;

(c) The names and relationship to the petitioner of any members of the immediate family of the petitioner, and the relationship, if any, of the person to be adopted to the petitioner;

(d) The race and religious affiliation, if any, of the person to be adopted, or of his natural parent or parents;

(e) The race and religious affiliation, if any, of the petitioner;

(f) The names and addresses of the natural persons, and the institutions which have had physical or legal care and custody of the child since its birth, and the period of time during which such natural persons and institutions have had such care and custody and whether the homes of such natural persons and institutions were duly registered or licensed under the laws of the State with reference to foster homes;

(g) Any change of name which may be desired.

If any of the above facts are unknown to the petitioner, the petition shall state this fact. If any of the above facts are known to a child care or child placement agency, which as a matter of social policy declines to disclose them to the petitioner, the facts may be disclosed to the court in an exhibit filed with the petition by the agency in question. If more than one petitioner joins in a petition, the requirements of this section shall be applicable to each petitioner.

85G. (Consent.) Every petition for adoption shall be accompanied by written statements of consent, subscribed and sworn to before a person authorized by law to administer an oath, as specified in this section, except that the Court may in its discretion permit any petition to be filed without a necessary consent if such consent is added to the petition before the time set for hearings; but in no event shall an interlocutory or final decree of adoption be made without having the consents required by this section unless for reasons satisfactory to the Court, it shall appear proper to dispense therewith.

Consent to any proposed adoption shall be obtained from:

(a) the person to be adopted, if he is ten years of age or over; and also,

(b) both the natural parents, if married, if they are alive and have not lost their parental rights through court action or voluntary relinquishment or abandonment; or

(c) one natural parent, if the other is not alive or has lost his parental rights as mentioned in (b) above; or

(d) the mother of a child born out of wedlock, except that if the child has been legitimated according to the laws of any jurisdiction, the consent of the father shall then also be required, if he is alive and has not subsequently lost his parental rights through court action or voluntary relinquishment or abandonment; or

(e) the mother of a child born in wedlock, if the illegitimacy of the child has been established to the satisfaction of the Court, and notice, as is provided by Section 85H of this subtitle, has been given to the husband of the mother of the child; or

(f) the legal guardian of the person to be adopted, if parental rights have been transferred by court action to such guardian; or

(g) the executive head of any public or private child care or child placement institution or agency which through court action or voluntary relinquishment has been given the care, custody and control of the person to be adopted, including the right to consent to such an adoption; or

(h) the State Department of Public Welfare or its local unit within the jurisdiction of the Court, in any condition of fact not hereinbefore covered.

Any consent obtained under the provisions of this section may be revoked and cancelled at any time during the adoption proceedings prior to the entry of an interlocutory decree of

adoption. Withdrawal of consent shall thereafter be prohibited, unless permitted by the Court at a hearing at which all parties to the adoption proceedings are given an opportunity to be heard.

Minority of a natural parent shall not be a bar to such parent's consent to adoption, and the adoption shall not thereby be invalidated.

**85H. (Notice.)** Due notice of pending adoption proceedings shall be given immediately upon the filing of a petition by summons, order of publication or otherwise, as the Court may order to be given to any person or persons whose consent is necessary thereto. Provided, however, that any party or parties who have formally given their consent to the proposed adoption, as provided elsewhere in this sub-title, shall be held thereby to have waived the requirement of notice to them under the provisions of this section. Provided further, however, that in no event shall a consent executed by a natural mother before the end of the first thirty days of the child's life constitute a waiver of the requirement of notice provided for in this section.

**85-I. (Investigation.)** Upon the filing of a petition, except in those cases in which the Court shall have such intimate and personal knowledge of the facts and circumstances as to enable it to determine the matter without the aid of an investigation or, unless a report by one of the agencies hereinafter mentioned is filed with the petition, the Court may direct the State Department of Public Welfare, or one of its local units, or a child placement agency licensed by the State Department of Public Welfare, or in its discretion may direct its own Probation Department or other officer or appointee of the Court:

(1) To make an investigation—

(a) of the truth of the allegations of the petition;

(b) of the former environment, antecedents and assets, if any, of the person to be adopted, for the purpose of ascertaining whether such person is a proper subject for adoption;

(c) of the home of the petitioner or petitioners, to determine whether the home is a suitable one for such person;

(d) of any other circumstances and conditions which may have a bearing on the adoption and of which the Court should have knowledge;

(2) To report to the Court the findings of such investigation in a written report.

(3) To recommend to the Court whether a final decree declaring the adoption prayed for in the petition should be immediately granted, or whether the Court should pass an interlocutory decree granting temporary custody of the person to be adopted to the petitioner or petitioners, as hereinafter set forth. Any written report submitted to the Court shall be filed with, and become part of, the records in the case.

85J. (Hearing.) If no investigation is ordered by the Court or if no report be filed within 60 days, or such time as extended by the Court, after a copy of the petition and the order providing for the report is served upon the agency directed to make the investigation, or if a report is filed recommending that the petition be either granted or denied, the Court may proceed with a hearing upon the petition and pass such order or decree as it may deem proper in the premises.

If a report is duly filed and it contains a recommendation that it would be for the best interests of the minor that the petitioner or petitioners should have the custody of the minor for a trial period, the Court shall upon hearing had either pass a final decree or an interlocutory decree of adoption granting to the petitioner, or petitioners, the temporary custody of the child for a limited period of time, not to exceed one (1) year, the Court, in the meantime, retaining jurisdiction of the case, or take such other action as in its discretion it may deem to be in the best interests of the minor.

The Court may revoke its interlocutory decree for good cause shown at any time before the entry of the final decree, either on its own motion or on the motion of one of the parties to the adoption. After such revocation notice shall be given thereof to all those persons or parties who were given notice of the original petition for adoption, and an opportunity for all such interested persons or parties to be heard.

All hearings with reference to adoption shall be of a confidential nature with as much privacy as the Court may approve.

85K. (Legal Effect of Interlocutory Decree of Adoption.) From and after the entry of an interlocutory decree of adoption or from and after the entry of a final decree of adoption where no such interlocutory decree is entered, the following legal effects shall result:

(a) Except as otherwise expressly provided in this section, the person adopted shall be, to all intents and purposes,

the child of the petitioner or petitioners; unless and until such interlocutory order of adoption is revoked the person adopted shall be entitled to all the rights and privileges and subject to all the obligations of a child born in lawful wedlock to the petitioner or petitioners.

(b) The natural parents of the person adopted, if living, shall after the interlocutory decree be relieved of all legal duties and obligations due from them to the person adopted, and shall be divested of all rights with respect to such person; provided, that nothing in this sub-title shall be construed to prevent the person adopted from inheriting from his natural parents and relatives under the laws of this or any other State.

(c) The term "child" or its equivalent in a deed, grant, will or other written instrument shall be held to include any adopted person, unless the contrary plainly appears by the terms thereof, whether such instrument was executed before or after the entry of the interlocutory decree of adoption, if any, and if none, before or after the entry of the final decree of adoption.

85L. (Final Decree.) Before the end of the trial period, the Court may request a supplemental written report from the agency making the original report showing the result of such trial period and making a recommendation to the Court in regard to the advisability of the passage of a final decree, declaring the adoption prayed for in the petition. If the Court be satisfied from the original report, the supplemental report, or from testimony taken, or otherwise, that the best interests and welfare of the child will be promoted by the passage of a final decree declaring the adoption of the person to be adopted, the Court shall, thereupon, pass such final decree of adoption.

No attempt to invalidate a final decree of adoption by reason of any jurisdictional or procedural defect shall be received by the Court, or by any Court of this State, unless regularly filed with such Court within one year following the entry of the final decree.

85M. (Legal Effects of Final Decree.) Upon entry of a final decree of adoption, the legal effects of an interlocutory order shall be confirmed and continued.

The status of adoptive relationship created by a valid final decree of adoption in another jurisdiction shall be given full faith and credit by the courts of this State. When the question is properly presented to a Court in this State and

if the party against whom judgment would be rendered is subject to the jurisdictional processes of the courts of this State, the courts shall apply the legal effects of a final decree of adoption made in this State to such adoptive relationship created by a final decree of adoption in another jurisdiction.

85N. (Legitimation.) Whenever the petitioner is a spouse of the natural parent of the person to be adopted, and the natural parent consents to the adoption or joins in the petition for adoption the Court may in its discretion dispense with the investigation, report, and interlocutory decree provided for in this sub-title, but in all other respects the procedure shall be similar to the procedure prescribed by this sub-title for the adoption of minors; and the decree shall have the effect of reserving unto the natural parent all his or her natural relationships, rights and obligations to the person adopted by the spouse.

85-O. (Adults.) Persons over twenty-one years of age may be declared to be adopted, on the petition of the adoptive parent or parents, the consent of the person to be adopted, and notice to the nearest next of kin of the petitioner or petitioners, if upon hearing had the Court shall be satisfied that the adoption should be granted. The legal effect of such an adoption shall be the same as that of the adoption of a minor, except as to guardianship.

85P. (Prohibited Compensation.) It shall be unlawful for any agency, institution, or individual rendering any service in connection with the placement of a child for adoption to charge or receive from or on behalf of either the natural parent or parents of the person to be adopted, or from or on behalf of the person or persons legally adopting such person, any compensation whatsoever for the placement service, but this shall not be construed to prohibit the payment by any interested persons of reasonable and customary charges or fees for hospital or medical or legal services.

It shall be the duty of the State's Attorney in each county and in Baltimore City to prosecute all violations of this section, and any agency, institution or individual convicted of violating this section shall be subject to a fine not to exceed one hundred dollars or to imprisonment not to exceed three months, or both, for each offense.

85Q. (Appeal.) Any party to an adoption proceeding may appeal to the Court of Appeals from any interlocutory or final order or decree of the trial court, within the period specified generally for appeals in equity cases.



85R. (Records.) Records and papers in adoption proceedings, from and after the filing of the petition shall be sealed and opened to inspection only upon an order of the Court; provided, that in any proceeding in which there has been an entry of a final decree before June 1st, 1947, and in which the records have not already been sealed, the records and papers shall be sealed only on motion of one of the parties to the proceeding. In either case said seals shall not be broken, and said papers shall not be inspected by any person, including the parties to the proceeding, except upon order of the Court. The Clerks of the several courts shall keep respectively separate dockets for adoption proceedings.

85S. (Interpretation.) This sub-title shall not affect any adoption for which a final decree was entered before June 1, 1947, nor any adoption proceedings pending as of that date, except as expressly stipulated herein. All laws inconsistent with the provisions of this sub-title are hereby repealed to the extent of such inconsistency. If any provisions of this sub-title, or the applicability thereof to any person or set of circumstances, is held invalid, the remainder of this sub-title and the applicability thereof to other persons and sets of circumstances shall not thereby be affected.

SEC. 3. *And be it further enacted*, That a new section be and it is hereby added to Article 93 of the Annotated Code (1939 Edition), title "Testamentary Law, sub-title "Distribution", said new section to be known as Section 139A, to follow immediately after Section 139 thereof, and to read as follows:

139A. In the application of the provisions of this sub-title there shall be no distinction between a legally adopted child and a child by birth, to the end that such adopted child shall take from, through and as a representative of its adopting parent or parents and the lineal or collateral kindred of such adopting parent or parents in the same manner as a child by birth and to the end that upon the death of an adopted child intestate without surviving descendants, such child's property, exclusive of the share of such child's surviving spouse, shall pass and be distributed in the same manner as if such child had been born to such adopting parent or parents in lawful wedlock.

SEC. 4. *And be it further enacted*, That this Act shall not apply to Allegany, Washington, Garrett, Prince George's, Charles, Calvert and St. Mary's Counties.

SEC. 5. *And be it further enacted*, That this Act shall take effect on June 1, 1947.

Approved April 25, 1947.

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## CHAPTER 600.

(Senate Bill 8)

AN ACT to add 14 new sections to Article 88A of the Annotated Code of Maryland (1939 Edition), title "State Department of Public Welfare", to be known as Sections 16A to 16N, inclusive, to follow immediately after Section 16 of said Article 88A, and to be under the new sub-title "Child Care"; to repeal and re-enact, with amendments, Sections 10 and 11 of said Article 88A of the Annotated Code (1939 Edition and 1943 Supplement), sub-title "Board of Welfare"; and to repeal Sections 622 to 626, inclusive, of Article 27 of the Annotated Code (1939 Edition), title "Crimes and Punishments", sub-title "Separating Young Child from Mother"; providing generally for the examination and licensing of agencies, institutions and individuals having the care and custody of minors, defining the rights and duties of such agencies, institutions and individuals, prescribing the procedure to be followed by the State Department of Public Welfare in such examination and licensing, and repealing inconsistent laws.

SECTION 1. *Be it enacted by the General Assembly of Maryland*, That 14 new sections be and they are hereby added to Article 88A of the Annotated Code of Maryland (1939 Edition), title "State Department of Public Welfare", to be under the new sub-title "Child Care", to be known as Sections 16A to 16N, inclusive, to follow immediately after Section 16 of said Article, and to read as follows:

16A. (Legislative Policy.) The General Assembly hereby declares as a matter of legislative policy its conviction that the paramount consideration of this sub-title is the protection of the children affected by it. The condition of childhood is such that a child is not capable of protecting himself, and when its natural parents for any reason have relinquished its care to others, there arises the possibility of certain risks to the child which in turn require comparable and offsetting measures. When the interests of a child and those of an adult are in conflict, the doubt should be resolved in favor of the child.