

sidered severally from the remainder of this act although contained in sections containing other provisions and shall be excluded from this act and the fact that such provision shall be held to be unconstitutional, invalid or unenforcible, shall in no wise affect any other provision of this act, although contained in the same section; the Legislative Assembly hereby declaring that all sections of this act or parts thereof are independent sections and parts of sections and that it would have passed the remaining sections of said act and each provision thereof notwithstanding the unconstitutionality, invalidity or unenforcibility of any other portion thereof.

Approved March 16, 1939.

PROCEDURE

CHAPTER 189

H. B. No. 337—(Bergesen)

REGULATING ADOPTION PROCEEDINGS

An act amending and re-enacting Section 4444 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, relating to the consent of parents or guardians of children involved in adoption proceedings, relating to the giving of consent therein by the State Board of Administration, or its successor, providing service of notice of such adoption proceedings upon such parents, guardians and/or said Board of Administration, or its successor, and providing for exceptions thereto; providing for method by which decrees of adoption may be attacked and time when such proceedings therefor may be commenced; specifying the procedure by which custody of children involved in such proceedings may be changed; and declaring that an emergency exists.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] Section 4444 of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, is hereby amended and re-enacted to read as follows:

§ 4444. CONSENT OF PARENTS OR GUARDIANS OR STATE BOARD OF ADMINISTRATION, OR ITS SUCCESSOR; CUSTODY OF CHILDREN.] Except as herein provided no adoption of a minor child shall be permitted without the consent of its parent or parents, but the consent of a parent who has abandoned the child, or who cannot be found, or who is insane or otherwise incapacitated from giving consent, or who has lost custody of the child through divorce proceedings or the order of a juvenile court, may be dispensed with, and consent may be given by the guardian, if there be one, or if there be no

guardian by the Board of Administration, or its successor. In case of illegitimacy the consent of the mother shall suffice; provided, however, that her consent may be dispensed with for any of the reasons hereinbefore stated.

When the parents of any minor child are dead, or have abandoned it, and cannot be found, and such child has no duly appointed guardian in the State, the court shall order a hearing, with three weekly published notices to be given, the last publication to be at least ten days before the time set for the hearing. In every such case the court shall cause such further notice to be given to the known kindred of the child as shall appear to be just and practicable; provided, that if there be no duly appointed guardian, a parent who has lost custody of the child through divorce proceedings, and the father of an illegitimate child who has acknowledged its paternity in writing, or against whom paternity has been duly adjudged, shall be served with notice in such manner as the court shall direct in all cases where the residence is known or can be ascertained.

In all proceedings in which a decree of adoption has been duly entered by the court, the validity of such decree may not be attacked except by proceedings brought for that specific purpose by a party interested therein. Such proceedings must be commenced within one year from the date of entering of the decree of adoption, or in all proceedings in which the decree has heretofore been entered, within one year of the time when this act takes effect.

In all proceedings brought in accordance with this act in which the validity of a decree of adoption is drawn in question, the court having jurisdiction of such proceedings shall determine as to the facts which existed at the time when the hearing on the adoption proceedings was had, and if the court determines that the facts which were necessary for the validity of such decree actually did exist at such time the court shall sustain the decree of adoption or shall enter a new decree of adoption nunc pro tunc as of the date when the original decree of adoption was entered.

In all proceedings heretofore or hereafter instituted for the purpose of changing the custody of a child involved in adoption proceedings, the same shall be brought by separate proceedings and the court having jurisdiction thereof shall consider the welfare of the child as being the dominant factor. No such change of custody shall be ordered by the court unless the court finds as a fact that the welfare of the child requires it, and the burden of proving such fact shall be upon the party bringing such proceedings.

§ 2. SAVING CLAUSE.] If any provision of this act shall be held to be unconstitutional or invalid or unenforcible, such unconstitutional, invalid or unenforcible provision shall be considered severally from the remainder of this act and shall be excluded from this act, and the fact that such provisions shall be held to be unconsti-

tutional, invalid or unenforcible, shall in no wise affect any other provision of this act, although contained in the same section; the Legislative Assembly hereby declaring that all parts of this act are independent, and that it would have passed the remaining provisions of said act, and each thereof, notwithstanding the unconstitutionality, invalidity or unenforcibility of any other provision or part thereof.

§ 3. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1939.

CHAPTER 190

S. B. No. 196—(Guthrie and Lian)

PUBLIC WORKS PROCEDURE ACT, AMENDMENT

An act to amend and re-enact Section 6 of Chapter 198 of the Session Laws of 1937, simplifying the procedure for the construction and financing of public works projects by municipalities, enabling municipalities to make and perform contracts with Federal agencies relating to the construction and financing of such projects and conferring additional power upon municipalities.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 6 of Chapter 198 of the Session Laws of North Dakota for 1937, be and the same is hereby amended and re-enacted to read as follows:

§ 6. TERMINATION OF ACT.] Except in pursuance of any contract or agreement theretofore entered into by and between any municipality and any Federal agency, no municipality shall exercise any of the powers conferred by this act after December 31, 1941.

Approved March 15, 1939.