

Stricken language would be deleted from present law. Underlined language would be added to present law.

As Engrossed: H2/5/97

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 216 OF 1997
HOUSE BILL 1405

4
5 By: Representative Judy Smith
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 9-9-102 TO
10 REMOVE BARRIERS TO INTERETHNIC ADOPTION AND TO GIVE
11 PREFERENCE TO RELATIVE CAREGIVERS IN FOSTER CARE
12 PLACEMENTS TO COMPLY WITH FEDERAL LAW; AND FOR OTHER
13 PURPOSES."

Subtitle

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16 "TO REMOVE BARRIERS TO INTERETHNIC
17 ADOPTION AND GIVE PREFERENCE TO RELATIVE
18 CAREGIVERS IN FOSTER CARE PLACEMENTS TO
19 COMPLY WITH FEDERAL LAW"
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Annotated § 9-9-102 is amended to read as
24 follows:

25 "~~9-9-102. Considerations of child's minority race or ethnic heritage~~
26 Religious preference - Removal of Barriers to Interethnic Adoption -
27 Preference to Relative Caregivers for a Child in Foster Care.

28 (a) In all custodial placements by the Department of Human Services in
29 foster care or investigations conducted by the Department of Human Services
30 pursuant to court order under § 9-9-212, ~~due consideration shall be given to~~
31 ~~the child's minority race or minority ethnic heritage~~ preferential
32 consideration shall be given to an adult relative over a non-related caregiver
33 provided that the relative caregiver meets all relevant child protection
34 standards and it is in the child's best interest to be placed with the
35 relative caregiver.

36 ~~(b) Except under the circumstances set forth in subsection (d) of this~~

1 ~~section, in the placement or adoption of a child of minority racial or~~
2 ~~minority ethnic heritage, in reviewing the placement, the court shall consider~~
3 ~~preference, and in determining appropriate placement, the court shall give~~
4 ~~preference, in the absence of good cause to the contrary:~~

5 ~~_____ (1) To a relative or relatives of the child, or, if that would be~~
6 ~~detrimental to the child or if a relative is not available;~~

7 ~~_____ (2) To a family with the same racial or ethnic heritage as the~~
8 ~~child, or, if that is not feasible;~~

9 ~~_____ (3) To a family of different racial or ethnic heritage from the~~
10 ~~child, which family is knowledgeable and appreciative of the child's racial or~~
11 ~~ethnic heritage.~~

12 (b) The Department of Human Services and any other agency or entity
13 which receives federal assistance and is involved in adoption or foster care
14 placement shall not discriminate on the basis of the race, color, or national
15 origin of the adoptive or foster parent or the child involved nor delay the
16 placement of a child on the basis of race, color, or national origin of the
17 adoptive or foster parents.

18 ~~(c)(1)~~ If the child's genetic parent or parents express a preference
19 for placing the child in a foster home or an adoptive home of the same or a
20 similar religious background to that of the genetic parent or parents, ~~in~~
21 ~~following the preferences in subdivision (b)(1) or (2) of this section,~~ the
22 court shall place the child with a family that ~~also~~ meets the genetic parent's
23 religious preference, or if a family is not available, to a family of a
24 different religious background which is knowledgeable and appreciative of the
25 childs religious background.

26 ~~_____ (2) Only if no family is available as described in subdivision~~
27 ~~(b)(1) or (2) of this section may the court give preference to a family~~
28 ~~described in subdivision (b)(3) of this section that meets the parent's~~
29 ~~religious preference.~~

30 ~~(d) Upon sufficient proof to the court that attempts to locate and~~
31 ~~place a child of a minority race or ethnic heritage have been unsuccessful,~~
32 ~~the court shall weigh the best interests of the child in being timely placed~~
33 ~~for adoption and may place the child for adoption notwithstanding the~~
34 ~~provisions of this section.~~ The Court shall not deny a petition for adoption
35 on the basis of race, color, or national origin of the adoptive parent or the
36 child involved."

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SECTION 2. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 5. EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that the United States Congress has amended the laws pertaining to adoption and out-of-home placement of children; that failure to amend State law to mirror those federal laws will jeopardize the federal funding necessary for the State to accomplish adoptions and out-of-home placement; that this act provides for the necessary amendments to State law. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

/s/Rep. Judy Smith

APPROVED: 2-19-97