

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: S3/28/23

A Bill

SENATE BILL 408

5 By: Senators C. Penzo, C. Tucker
6 By: Representative Burkes
7

For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS LAWS CONCERNING ADOPTION; TO
10 AMEND CERTAIN ADOPTION LAWS TO DIFFERENTIATE BETWEEN
11 MINOR AND ADULT ADOPTIONS; TO AMEND THE REQUIREMENTS
12 CONCERNING WITHDRAWAL OF CONSENT TO ADOPTION; TO
13 AMEND THE REQUIREMENTS CONCERNING THE DESCRIPTION AND
14 ESTIMATE OF VALUE OF PROPERTY OWNED BY AN INDIVIDUAL
15 TO BE ADOPTED; TO AMEND THE REQUIREMENTS FOR A HOME
16 STUDY IN AN ADOPTION CASE; TO AMEND THE REQUIREMENTS
17 FOR A HEALTH, GENETIC, AND SOCIAL HISTORY IN AN
18 ADOPTION CASE; TO AMEND THE LAW CONCERNING THE
19 TERMINATION OF RIGHTS OF NONPARENTAL RELATIVES; TO
20 AMEND THE REQUIREMENTS FOR CHECKING THE PUTATIVE
21 FATHER REGISTRY IN AN ADOPTION CASE; AND FOR OTHER
22 PURPOSES.
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Subtitle

25 TO AMEND VARIOUS LAWS CONCERNING
26 ADOPTION; AND TO AMEND CERTAIN ADOPTION
27 LAWS TO DIFFERENTIATE BETWEEN MINOR AND
28 ADULT ADOPTIONS.
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32 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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34 SECTION 1. DO NOT CODIFY. Legislative intent.

35 (a)(1) The General Assembly finds that Act 889 of 1995 amended § 9-9-
36 215(a)(1) as follows:



1 (A) A decree of adoption has the effect, "[e]xcept with
 2 respect to a spouse of the petitioner and relatives of the spouse, . . . to
 3 terminate all legal relationships between the adopted individual and his or
 4 her biological relatives".

5 (2) § 9-9-215(a)(1) permits a court to grant visitation rights
 6 to parents of the deceased biological parent of the child in certain
 7 circumstances, the legal relationship between the parties remains terminated.

8 (3)(A) Section 4 of Act 889 of 1995 repealed all laws and parts
 9 of laws in conflict with the act.

10 (B)(i) § 9-9-223 grants a court the discretion to
 11 terminate rights of nonparental relatives in an adoption, except as provided
 12 in Title 9, Chapter 9, Subchapter 2.

13 (ii) Under Act 889 of 1995, Title 9, Chapter 9,
 14 Subchapter 2 terminates all legal relationships with parents and nonparental
 15 relatives by operation of law.

16 (b) Therefore, based on this conflict, § 9-9-223 should be repealed,
 17 and is repealed in Section 8 of this act.

18
 19 SECTION 2. Arkansas Code § 9-9-209(c)(2), concerning withdrawal of
 20 consent to adoption, is amended to read as follows:

21 (2) The period for filing a withdrawal of consent under
 22 subsection (b) of this section does not apply to:

23 (A) An agency as defined in ~~§9-9-202~~ § 9-9-202; ~~or~~

24 (B) A minor:

25 (i) Who is over twelve (12) years of age; and

26 (ii) Whose consent to adoption is required;

27 (C) An adult to be adopted; or

28 (D) The spouse of an adult to be adopted.

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 30 SECTION 3. Arkansas Code § 9-9-210(a)(7), concerning the description
 31 and estimate of value of any property of an individual to be adopted that
 32 must be stated in the petition for adoption, is amended to read as follows:

33 (7) A description and estimate of value of any property of the
 34 ~~individual~~ minor to be adopted;

35
 36 SECTION 4. Arkansas Code § 9-9-212(g)(1)(A), concerning when a

1 detailed, written health history and genetic and social history of a child to
2 be adopted must be provided to the prospective adoptive parents, is amended
3 to read as follows:

4 (g)(1)(A) Except as provided under subdivision (g)(2) of this section,
5 before placement for adoption, the licensed adoption agency or, when an
6 agency is not involved, the person, entity, or organization handling the
7 adoption shall compile and provide to the prospective adoptive parents a
8 detailed, written health history and genetic and social history of the child
9 that ~~may excludes~~ exclude information that would identify birth parents or
10 members of a birth parent's family.

11
12 SECTION 5. Arkansas Code § 9-9-213, concerning residency requirements
13 for a petition for adoption of a minor to be granted, is amended to add an
14 additional subsection to read as follows:

15 (c) This section does not apply to a minor who is:

16 (1) Less than six (6) months of age at the time the petition for
17 adoption is filed; and

18 (2) Not in the custody of the Department of Human Services.

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20 SECTION 6. Arkansas Code § 9-9-223, concerning the termination of
21 rights of nonparental relatives, is repealed.

22 ~~9-9-223. Termination of rights of nonparental relatives.~~

23 ~~Except as provided in this subchapter with regard to parental rights,~~
24 ~~any rights to a child which a nonparental relative may derive through a~~
25 ~~parent or by court order may, if the best interests of the child so require,~~
26 ~~be terminated in connection with a proceeding for adoption or for termination~~
27 ~~of parental rights.~~

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29 SECTION 7. Arkansas Code § 9-9-224, concerning the procedure that
30 applies in an adoption case involving a child born to a mother unmarried at
31 the time of the child's birth, is amended to add an additional subsection to
32 read as follows:

33 (d) This section does not apply to an adoption when:

34 (1) An order terminating the rights of the minor's parents has
35 been entered by a court of competent jurisdiction in this or any other state
36 before the filing of the petition for adoption, regardless of whether the

1 parents consented to termination of parental rights; or

2 (2) The minor was adopted in a separate adoption proceeding
 3 before the filing of the current petition for adoption.

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 5 SECTION 8. Arkansas Code § 9-9-505 is amended to read as follows:

6 9-9-505. Compilation of ~~nonidentifying~~ health history and genetic and
 7 social history.

8 (a) Prior to placement for adoption, the licensed adoption agency or,
 9 when an agency is not involved, the person, entity, or organization handling
 10 the adoption shall compile and provide to the prospective adoptive parents a
 11 detailed, written health history and genetic and social history of the child
 12 that ~~excludes~~ may exclude information that would identify birth parents or
 13 members of a birth parent's family and that shall be set forth in a document
 14 that is separate from any other document ~~containing such identifying~~
 15 ~~information.~~

16 (b) Records containing the ~~nonidentifying~~ health history and genetic
 17 and social history ~~information~~ and that are set forth on a document that is
 18 separate from any other document ~~containing identifying data:~~

19 (1)(A) Shall be retained by the agency or, when no agency is
 20 involved, by the person, entity, or organization handling the adoption, for
 21 ninety-nine (99) years.

22 (B)(i) If the agency or person, entity, or organization
 23 who handled the adoption ceases to function, that agency or intermediary
 24 shall transfer records containing the ~~nonidentifying~~ health history and
 25 genetic and social history ~~information~~ on the adoptee to the Department of
 26 Human Services.

27 (ii) However, a licensed agency ceasing operation
 28 may transfer the records to another licensed agency within this state, but
 29 only if the agency transferring the records gives notice of the transfer to
 30 the department; and

31 (2) Shall be available upon request throughout the time
 32 specified in subdivision (b)(1) of this section, together with any additional
 33 ~~nonidentifying~~ information that may have been added on health history or on
 34 genetic and social history, but which ~~excludes~~ may exclude information
 35 identifying any birth parent or member of a birth parent's family or the
 36 adoptee or any adoptive parent of the adoptee, to the following persons only:

1 (A) The adoptive parents of the child or, in the event of
2 death of the adoptive parents, the child's guardian;

3 (B) The adoptee;

4 (C) In the event of the death of the adoptee, the
5 adoptee's children, the adoptee's widow or widower, or the guardian of any
6 child of the adoptee;

7 (D) The birth parent of the adoptee; and

8 (E) Any child welfare agency having custody of the
9 adoptee.

10 (c) The actual and reasonable cost of providing ~~nonidentifying the~~
11 health history and genetic and social history shall be paid by the person
12 requesting the information.

13 (d) Any information provided to an eligible person under this
14 subchapter shall be nonidentifying unless permitted under § 9-9-506.

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/s/C. Penzo