

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 700 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/12/09

A Bill

HOUSE BILL 1633

5 By: Representative Reep  
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8 **For An Act To Be Entitled**

9 AN ACT TO CLARIFY THE AUTHORITY OF FOSTER PARENTS  
10 AND PREADOPTIVE PARENTS REGARDING CONSENT TO  
11 MEDICAL TREATMENT; AND FOR OTHER PURPOSES.  
12

13 **Subtitle**

14 AN ACT TO CLARIFY THE AUTHORITY OF  
15 FOSTER PARENTS AND PREADOPTIVE PARENTS  
16 REGARDING CONSENT TO MEDICAL TREATMENT.  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 20-9-602 is amended to read as follows:

22 20-9-602. Consent generally.

23 It is recognized and established that, in addition to ~~such other~~  
24 ~~persons as may be so authorized and empowered~~ other authorized persons, any  
25 one (1) of the following persons is ~~authorized and empowered to~~ may consent,  
26 either orally or otherwise, to any surgical or medical treatment or procedure  
27 not prohibited by law ~~which may be~~ that is suggested, recommended,  
28 prescribed, or directed by a licensed physician:

29 (1) Any adult, for himself or herself;

30 (2) (A) Any parent, whether an adult or a minor, for his or her  
31 minor child or for his or her adult child of unsound mind whether the child  
32 *is of the parent's blood, an adopted child, or a stepchild, ~~or~~ a foster child*  
33 not in custody of the Department of Human Services, or a preadoptive child  
34 not in custody of the Department of Human Services.

35 (B) However, the father of an illegitimate child cannot



1 consent for the child solely on the basis of parenthood;

2 (3) Any married person, whether an adult or a minor, for himself  
3 or herself;

4 (4) Any female, regardless of age or marital status, for herself  
5 when given in connection with pregnancy or childbirth, except the unnatural  
6 interruption of a pregnancy;

7 (5) Any person standing in loco parentis, whether formally  
8 serving or not, and any guardian, conservator, or custodian, for his or her  
9 ward or other charge under disability;

10 (6) Any emancipated minor, for himself or herself;

11 (7) Any unemancipated minor of sufficient intelligence to  
12 understand and appreciate the consequences of the proposed surgical or  
13 medical treatment or procedures, for himself or herself;

14 (8) Any adult, for his or her minor sibling or his or her adult  
15 sibling of unsound mind;

16 (9) During the absence of a parent so authorized and empowered,  
17 any maternal grandparent and, if the father is so authorized and empowered,  
18 any paternal grandparent, for his or her minor grandchild or for his or her  
19 adult grandchild of unsound mind;

20 (10) Any married person, for a spouse of unsound mind;

21 (11) Any adult child, for his or her mother or father of unsound  
22 mind; ~~and~~

23 (12) Any minor incarcerated in the Department of Correction or  
24 the Department of Community Correction, for himself or herself; ~~and~~

25 (13)(A) Any foster parent or preadoptive parent for a child in  
26 custody of the Department of Human Services in:

27 (i)(a) Emergency situations.

28 (b) As used in this subdivision, "emergency  
29 situation" means a situation in which, in competent medical judgment, the  
30 proposed surgical or medical treatment or procedures are immediately or  
31 imminently necessary and any delay occasioned by an attempt to obtain a  
32 consent would reasonably be expected to jeopardize the life, health, or  
33 safety of the person affected or would reasonably be expected to result in  
34 disfigurement or impaired faculties;

35 (ii) Routine medical treatment;

36 (iii) Ongoing medical treatment;

1 (iv) Nonsurgical procedures by a primary care  
2 provider; and

3 (v) Nonsurgical procedures by a specialty care  
4 provider.

5 (B) The Department of Human Services shall be given timely  
6 notice of all admissions and discharges consented to by a foster parent or  
7 preadoptive parent for a child in custody of the Department of Human  
8 Services.

9 (C) The consent of a representative of the Department of  
10 Human Services is required for:

11 (i) Nonemergency surgical procedures;

12 (ii) Nonemergency invasive procedures;

13 (iii) "End of life" non-emergency procedures such as  
14 do-not-resuscitate orders, withdrawal of life support, and organ donation;  
15 and

16 (iv) Nonemergency medical procedures relating to a  
17 criminal investigation or judicial proceeding that involves gathering  
18 forensic evidence.

19  
20 /s/ Reep

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22 **APPROVED: 3/31/2009**