

1 State of Arkansas *As Engrossed: H2/24/21 H3/8/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1379

4

5 By: Representative Penzo

6 *By: Senator B. Ballinger*

7

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For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING CONSENT TO
10 ADOPTION AND RELINQUISHMENT OF PARENTAL RIGHTS DURING
11 THE ADOPTION PROCESS; CONCERNING THE REPORT OF
12 EXPENDITURES RELATED TO AN ADOPTION; AND FOR OTHER
13 PURPOSES.

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Subtitle

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

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*SECTION 1. Arkansas Code § 9-9-208, concerning the execution of
27 consent to adoption, is amended to add additional subsections to read as
28 follows:*

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*(d)(1) A parent whose consent to adoption is required under this
30 subchapter shall have limited, independent legal representation for the
31 purpose of:*

32

(A) Executing the consent to adoption; and

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*(B) Withdrawing the consent to adoption if the parent
34 elects to withdraw the consent as permitted under this subchapter.*

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(2) The attorney:

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(A) Shall not represent any other party in the adoption;



1 and

2 (B) Shall certify, by signing the writing after its
3 execution by the parent, that:

4 (i) The attorney has explained to the parent the
5 effect of consenting to the adoption; and

6 (ii) The parent appeared to consent voluntarily and
7 of his or her own free will.

8 (3) This subsection shall not apply to an adoption if the
9 petitioner is:

10 (A) A stepparent whose spouse is a natural or adoptive
11 parent of the child to be adopted;

12 (B) Related to the child to be adopted within the second
13 degree as defined in § 28-9-212; or

14 (C) Represented by an attorney pro bono in the adoption
15 proceeding.

16 (4)(A) A parent whose consent to adoption is required under this
17 subchapter may elect not to be represented by an independent attorney as
18 provided in subdivision (d)(1) of this section by signing under oath, in the
19 presence of a notary public, an affidavit that includes the following:

20 (i) A statement that the parent understands that he
21 or she has been offered limited representation by an attorney, who does not
22 also represent the petitioner, to provide him or her with independent legal
23 advice concerning the effects of consenting to the adoption;

24 (ii) A statement that the parent understands that
25 the petitioner is willing to pay for the limited representation; and

26 (iii) A statement that the parent has, after
27 considering his or her right to an independent attorney, knowingly and
28 voluntarily and without coercion or undue influence from any other person
29 elected not to be represented by an attorney for the purpose of executing the
30 consent and, if the parent elects, withdrawing the consent.

31 (B) This affidavit shall, before the petition is heard, be
32 filed with the court having jurisdiction over the adoption proceeding.

33 (e)(1) If a parent whose consent to adoption is required under this
34 subchapter does not speak English as a native language, the parent shall be
35 provided a qualified interpreter for the purpose of interpreting the consent
36 adoption into the native language of the parent before its execution by the

1 parent unless a petitioner is:

2 (A) A stepparent whose spouse is a natural or adoptive
3 parent of the child to be adopted;

4 (B) Related to the child to be adopted within the second
5 degree as defined in § 28-9-212; or

6 (C) Represented by an attorney pro bono in the adoption
7 proceeding.

8 (2) For the purposes of this section, a qualified interpreter is
9 an interpreter who appears on the current registry of court interpreters
10 maintained by the Administrative Office of the Courts under § 16-10-1101 et
11 seq.

12 (3) The interpreter services:

13 (A) Shall be paid for by the petitioner; and

14 (B) May be provided in person, by telephone, by a video-
15 conferencing application, or by comparable means.

16 (4) If required, the consent to adoption shall:

17 (A) Identify the native language of the parent;

18 (B) Provide the name and qualifications of the qualified
19 interpreter; and

20 (C) Describe the method used by the qualified interpreter
21 to interpret the consent to adoption.

22 (5) A parent to whom subdivision (e)(1) of this section applies
23 may elect not to use a court interpreter by signing under oath, in the
24 presence of a notary public, an affidavit that includes the following:

25 (A) A statement that identifies the native language of the
26 parent;

27 (B) An acknowledgment that the parent has been offered a
28 qualified interpreter to interpret the consent to adoption into the parent's
29 native language;

30 (C) An acknowledgment that the petitioner is willing to
31 pay for the qualified interpreter;

32 (D) A statement that the parent elects not to use a
33 qualified interpreter in executing the consent because:

34 (i) The parent is proficient enough in English to
35 understand the legal documents without the assistance of a qualified
36 interpreter; or

1 (ii) The parent's attorney can explain in the
2 parent's native language the consent and implications of signing a consent to
3 adoption; and

4 (E) A statement that the parent elects not to use a
5 qualified interpreter knowingly and voluntarily, and without coercion or
6 undue influence from any other person.

7 (6) The affidavit under subdivision (e)(5) of this section shall
8 be:

9 (A) In English; and

10 (B) Translated into the native language of the parent by a
11 qualified interpreter; and

12 (C) Filed, before the petition is heard, with the court
13 having jurisdiction over the adoption proceeding.

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15 SECTION 2. Arkansas Code § 9-9-211, concerning reports of expenditures
16 made by a petitioner in an adoption proceeding, is amended to add additional
17 subsections to read as follows:

18 (d) A full accounting report required under subsection (a) of this
19 section shall include:

20 (1) The amounts paid;

21 (2) An itemization of expenses listed in § 9-9-206(c); and

22 (3) The time periods during which each reimbursement or benefit
23 has been paid or will be paid.

24 (e)(1) A parent or guardian whose consent to adoption is required
25 under this subchapter and who receives reimbursement for an expense incurred
26 or a fee for services rendered incidental to prenatal, delivery, and
27 postnatal care shall file:

28 (A) A full accounting report of anything of value that has
29 been or will be received from the petitioner or a third party acting on
30 behalf of the petitioner in connection with the adoption; and

31 (B) An affidavit verifying the full accounting report.

32 (2) A full accounting report required under subdivision (e)(1)
33 of this section shall include:

34 (A) The amounts paid;

35 (B) An itemization of expenses listed in § 9-9-206(c); and

36 (C) The time periods during which each reimbursement or

1 benefit has been paid or will be paid.

2
3 SECTION 3. Arkansas Code § 9-9-220, concerning the relinquishment and
4 termination of parent and child relationships in adoption proceedings, is
5 amended to add additional subsections to read as follows:

6 (h)(1) A parent who relinquishes his or her parental rights under this
7 section shall have limited, independent legal representation for the purpose
8 of:

9 (A) Executing the relinquishment; and

10 (B) Withdrawing the relinquishment if the parent elects to
11 withdraw the relinquishment as permitted under this section.

12 (2) The attorney:

13 (A) Shall not represent any other party in the adoption;

14 and

15 (B) Shall certify, by signing the writing after its
16 execution by the parent, that:

17 (i) The attorney has explained to the parent the
18 effect of relinquishing his or her parental rights; and

19 (ii) The parent appeared to relinquish his or her
20 parental rights voluntarily and of his or her own free will.

21 (3) This subsection shall not apply to an adoption if the
22 petitioner is:

23 (A) A stepparent whose spouse is a natural or adoptive
24 parent of the child to be adopted;

25 (B) Related to the child to be adopted within the second
26 degree as defined in § 28-9-212; or

27 (C) Represented by an attorney pro bono in the adoption
28 proceeding.

29 (4)(A) A parent who relinquishes his or her parental rights
30 under this section may elect not to be represented by independent attorney as
31 provided in subdivision (h)(1) of this section by signing under oath, in the
32 presence of a notary public, an affidavit that includes the following:

33 (i) A statement that the parent understands that he
34 or she has been offered limited representation by an attorney, who does not
35 also represent the petitioner, to provide the parent with independent legal
36 advice concerning the effects of relinquishing parental rights;

1 (ii) A statement that the parent understands that
2 the petitioner is willing to pay for the limited representation; and

3 (iii) A statement that the parent has, after
4 considering his or her right to an independent attorney, knowingly and
5 voluntarily and without coercion or undue influence from any other person
6 elected not to be represented by an attorney for the purpose of executing the
7 relinquishment and, if the parent elects, withdrawing the relinquishment.

8 (B) This affidavit shall, before the petition is heard, be
9 filed with the court having jurisdiction over the adoption proceeding.

10 (i)(1) If a parent who relinquishes his or her parental rights under
11 this section does not speak English as a native language, the parent shall be
12 provided a qualified interpreter for the purpose of interpreting the
13 relinquishment into the native language of the parent before its execution by
14 the parent unless a petitioner is:

15 (A) A stepparent whose spouse is a natural or adoptive
16 parent of the child to be adopted;

17 (B) Related to the child to be adopted within the second
18 degree as defined in § 28-9-212; or

19 (C) Represented by an attorney pro bono in the adoption
20 proceeding.

21 (2) For the purposes of this section, a qualified interpreter is
22 an interpreter who appears on the current registry of court interpreters
23 maintained by the Administrative Office of the Courts under § 16-10-1101 et
24 seq.

25 (3) The interpreter services:

26 (A) Shall be paid for by the petitioner; and

27 (B) May be provided in person, by telephone, by a video-
28 conferencing application, or by comparable means.

29 (4) If required, the relinquishment shall:

30 (A) Identify the native language of the parent;

31 (B) Provide the name and qualifications of the qualified
32 interpreter; and

33 (C) Describe the method used by the qualified interpreter
34 to interpret the relinquishment.

35 (5) A parent to whom subdivision (i)(1) of this section applies
36 may elect not to use a court interpreter by signing under oath, in the

1 presence of a notary public, an affidavit that includes the following:

2 (A) A statement that identifies the native language of the
3 parent;

4 (B) An acknowledgment that the parent has been offered a
5 qualified interpreter to interpret the relinquishment into the parent's
6 native language;

7 (C) An acknowledgment that the petitioner is willing to
8 pay for the qualified interpreter;

9 (D) A statement that the parent elects not to use a
10 qualified interpreter in executing the relinquishment because:

11 (i) The parent is proficient enough in English to
12 understand the legal documents without the assistance of a qualified
13 interpreter; or

14 (ii) The parent's attorney can explain in the
15 parent's native language the relinquishment and implications of signing a
16 relinquishment of parental rights; and

17 (E) A statement that the parent elects not to use a
18 qualified interpreter knowingly and voluntarily, and without coercion or
19 undue influence from any other person.

20 (6) The affidavit under subdivision (i)(5) of this section shall
21 be:

22 (A) In English; and

23 (B) Translated into the native language of the parent by a
24 qualified interpreter; and

25 (C) Filed, before the petition is heard, with the court
26 having jurisdiction over the adoption proceeding.

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28 /s/Penzo

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31 APPROVED: 4/6/21