

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 724 of the Regular Session

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

As Engrossed: S3/10/09

A Bill

SENATE BILL 516

5 By: Senator Madison
6 By: Representative Powers
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8

For An Act To Be Entitled

10 AN ACT TO AMEND THE HEARING PROVISIONS OF THE
11 REVISED UNIFORM ADOPTION ACT; AND FOR OTHER
12 PURPOSES.
13

Subtitle

14 TO AMEND THE HEARING PROVISIONS OF THE
15 REVISED UNIFORM ADOPTION ACT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 9-9-212 is amended to read as follows:

22 9-9-212. Hearing on petition – Requirements.

23 (a)(1) Before any hearing on a petition, the period in which the
24 relinquishment may be withdrawn under § 9-9-220 or in which consent may be
25 withdrawn under § 9-9-209, whichever is applicable, must have expired.

26 (2) No orders of adoption, interlocutory or final, may be
27 entered prior to the period for withdrawal.

28 (3) After the filing of a petition to adopt a minor, the court
29 shall fix a time and place for hearing the petition.

30 (4) At least twenty (20) days before the date of hearing, notice
31 of the filing of the petition and of the time and place of hearing shall be
32 given by the petitioner to:

33 (A) Any agency or person whose consent to the adoption is
34 required by this subchapter but who has not consented; and

35 (B) A person whose consent is dispensed with upon any



1 ground mentioned in § 9-9-207(a)(1), (2), (6), (8), and (9).

2 (5)(A) When the petitioner alleges that any person entitled to
3 notice cannot be located, the court shall appoint an attorney ad litem who
4 shall make a reasonable effort to locate and serve notice upon the person
5 entitled to notice; and upon failing to so serve actual notice, the attorney
6 ad litem shall publish a notice of the hearing directed to the person
7 entitled to notice in a newspaper having general circulation in the county
8 one (1) time a week for four (4) weeks, the last publication being at least
9 seven (7) days prior to the hearing.

10 (B) Before the hearing, the attorney ad litem shall file a
11 proof of publication and an affidavit reciting the efforts made to locate and
12 serve actual notice upon the person entitled to notice.

13 (b)(1)(A) Before placement of the child in the home of the petitioner,
14 a home study shall be conducted by any child welfare agency licensed under
15 the Child Welfare Agency Licensing Act, § 9-28-401 et seq., or any licensed
16 certified social worker.

17 (B) Home studies on non-Arkansas residents may also be
18 conducted by a person or agency in the same state as the person wishing to
19 adopt as long as the person or agency is authorized under the law of that
20 state to conduct home studies for adoptive purposes.

21 (2) The Department of Human Services shall not be ordered by any
22 court, ~~except the juvenile division of circuit court,~~ to conduct a an
23 adoptive home study, unless:

24 (A)(i) The court has first determined the responsible
25 party to be indigent; or

26 (ii) The child to be adopted is the subject of an
27 open dependency-neglect case and the goal of the case is adoption; and

28 (B) The person to be studied lives in the State of
29 Arkansas.

30 (3) All home studies shall be prepared and submitted in
31 conformity with the regulations promulgated pursuant to the Child Welfare
32 Agency Licensing Act, § 9-28-401 et seq.

33 (4)(A) The home study shall address whether the adoptive home is
34 a suitable home and shall include a recommendation as to the approval of the
35 petitioner as an adoptive parent.

36 (B) A written report of the home study shall be filed with

1 the court before the petition is heard.

2 (C) The home study shall contain an evaluation of the
3 prospective adoption with a recommendation as to the granting of the petition
4 for adoption and any other information the court requires regarding the
5 petitioner or minor.

6 (5)(A) The home study shall include a state-of-residence
7 *criminal background check, if available, and national fingerprint-based*
8 criminal background check performed by the Federal Bureau of Investigation in
9 compliance with federal law and regulation on the adoptive parents and all
10 household members ~~age sixteen (16)~~ eighteen (18) years of age and older,
11 excluding children in foster care.

12 (B) If a prospective adoptive parent has lived in a state
13 for at least six (6) years immediately prior to adoption, then only a state-
14 of-residence criminal background check shall be required.

15 (C) If the Department of Human Services has responsibility
16 for placement and care of the child to be adopted, the home study shall
17 *include a national fingerprint-based criminal background check* performed by
18 the Federal Bureau of Investigation in compliance with federal law and
19 regulation on the prospective adoptive parents and all household members
20 ~~sixteen (16)~~ eighteen (18) years of age or older, excluding children in
21 foster care.

22 (D) Upon request by the Department of Human Services,
23 local law enforcement shall provide the Department of Human Services with
24 local criminal background information on the prospective adoptive parents and
25 all household members ~~sixteen (16)~~ eighteen (18) years of age and older who
26 have applied to be an adoptive family.

27 (6) A child maltreatment central registry check shall be
28 required for all household members age ten (10) and older, excluding children
29 in foster care, as a part of the home study, if such a registry is available
30 in their state of residence.

31 (7) *Additional national fingerprint-based criminal background*
32 checks performed by the Federal Bureau of Investigation are not required for
33 international adoptions as they are already a part of the requirements for
34 adoption of the United States Department of Homeland Security Citizenship and
35 Immigration Services ~~of the Department of Homeland Security.~~

36 (8) Each prospective adoptive parent shall be responsible for

1 payment of the costs of the criminal background checks, both the in-state
2 check and the Federal Bureau of Investigation check if applicable, and shall
3 be required to cooperate with the requirements of the Department of Arkansas
4 State Police and the child maltreatment central registry, if available, with
5 regard to the criminal and central registry background checks, including, but
6 not limited to, signing a release of information.

7 (9)(A) Upon completion of the criminal record checks, the
8 Department of Arkansas State Police shall forward all information obtained to
9 either the Department of Human Services if it is conducting the home study,
10 to the agency, to the licensed certified social worker, or to the court in
11 which the adoption petition will be filed.

12 (B) The Department of Arkansas State Police shall forward
13 *all information obtained from the national fingerprint-based criminal*
14 *background checks* performed by the Federal Bureau of Investigation to either
15 the Department of Human Services, if it is doing the home study, or to the
16 court in which the adoption petition will be filed.

17 (C) The circuit clerk of the county where the petition for
18 *adoption has been or will be filed shall keep a record of the national*
19 *fingerprint-based criminal background checks* performed by the Federal Bureau
20 of Investigation for the court.

21 (c)(1) Unless directed by the court, a home study is not required in
22 cases in which the person to be adopted is an adult. The court may also
23 waive the requirement for a home study when a stepparent is the petitioner or
24 the petitioner and the minor are related to each other in the second degree.

25 (2) The home study shall not be waived when the case is a fast-
26 track adoption of a Garrett's Law baby under § 9-9-702.

27 (d)(1) After the filing of a petition to adopt an adult, the court by
28 order shall direct that a copy of the petition and a notice of the time and
29 place of the hearing be given to any person whose consent to the adoption is
30 required but who has not consented.

31 (2) The court may order a home study to assist it in determining
32 whether the adoption is in the best interest of the persons involved.

33 (3) The Department of Human Services shall not be ordered by any
34 court, ~~except the juvenile division of circuit court,~~ to conduct a home study
35 unless:

36 (A)(i) The court has first determined the responsible

1 party to be indigent; or

2 (ii) The person to be adopted is the subject of an
3 open dependency-neglect case and the goal of the case is adoption; and

4 (B) The person to be studied lives in the State of
5 Arkansas.

6 (4) All home studies shall be prepared and submitted in
7 conformity with the regulations promulgated pursuant to the Child Welfare
8 Agency Licensing Act, § 9-28-401 et seq.

9 (e)(1) Notice shall be given in the manner appropriate under rules of
10 civil procedure for the service of process in a civil action in this state or
11 in any manner the court by order directs.

12 (2) Proof of the giving of the notice shall be filed with the
13 court before the petition is heard.

14 (3) Where consent is not required, notice may be by certified
15 mail with return receipt requested.

16 (f) When one (1) parent of a child or children is deceased, and the
17 parent-child relationship has not been eliminated at the time of death, and
18 adoption proceedings are instituted subsequent to such decease, the parents
19 of the deceased parent shall be notified under the procedures prescribed in
20 this subchapter of such adoption proceedings, except when the surviving
21 parent-child relationship has been terminated pursuant to § 9-27-341.

22 (g)(1)(A) Except as provided under subdivision (g)(2) of this section,
23 before placement for adoption, the licensed adoption agency or, when an
24 agency is not involved, the person, entity, or organization handling the
25 adoption shall compile and provide to the prospective adoptive parents a
26 detailed, written health history and genetic and social history of the child
27 that excludes information that would identify birth parents or members of a
28 birth parent's family.

29 (B) The detailed, written health history and genetic and
30 social history shall be set forth in a document that is separate from any
31 document containing information identifying the birth parents or members of a
32 birth parent's family.

33 (C) The detailed, written health history and genetic and
34 social history shall be clearly identified and shall be filed with the clerk
35 before the entry of the adoption decree.

36 (D) Upon order of the court for good cause shown, the

1 clerk may tender to a person identified by the court a copy of the detailed,
2 written health history and genetic and social history.

3 (2) Unless directed by the court, a detailed, written health
4 history and genetic and social history of the child is not required if:

5 (A) The person to be adopted is an adult;

6 (B) The petitioner is a stepparent; or

7 (C) The petitioner and the child to be adopted are related
8 to each other within the second degree of consanguinity.

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10 /s/ Madison

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12 **APPROVED: 3/31/2009**
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