

# Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

## Amendment Form

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### Subtitle of House Bill No. 2016

"TO PROVIDE A MECHANISM FOR A GRANDPARENT TO MAINTAIN HIS OR HER  
RELATIONSHIP WITH HIS OR HER GRANDCHILD AFTER THE GRANDCHILD IS  
ADOPTED."

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### Amendment No. 1 to House Bill No. 2016.

Amend House Bill No. 2016 as originally introduced:

Page 1, line 9, delete "GRANDPARENT" and substitute "GRANDPARENT OR OTHER  
NONPARENTAL RELATIVE"

AND

Page 1, delete line 11 and substitute:

"HER GRANDCHILD OR OTHER RELATIVE CHILD AFTER THE CHILD IS ADOPTED;"

AND

Delete the subtitle in its entirety and substitute:

"TO PROVIDE A MECHANISM FOR A GRANDPARENT  
OR OTHER NONPARENTAL RELATIVE TO  
MAINTAIN HIS OR HER RELATIONSHIP WITH A  
CHILD AFTER THE CHILD IS ADOPTED."

AND

Delete all language after the enacting clause and substitute:

"SECTION 1. Legislative findings. The General Assembly finds that:  
(1) In Arkansas, more than thirty-three thousand six hundred  
(33,600) grandparents are responsible for grandchildren living with them and  
twenty-two percent (22%) of the grandparents and grandchildren live in  
poverty;  
(2) Many grandparents who love their grandchildren dearly are  
unable to be responsible for them on a daily basis because of their age,  
health conditions, limited fixed incomes, or a combination of these factors;  
(3) Because they are unable to care for their grandchildren and



the parents of the children are unable, unwilling, or unfit to care for the children, the children are placed in the custody of the Division of Family Services of the Department of Human Services and in foster care;

(4) Because permanency is a goal of children in foster care, the division often seeks termination of parental rights so that the child can be adopted;

(5) Termination of parental rights results in the grandparent and other nonparental relatives of the child who have attachments to the child being declared for all legal purposes as not related to the child and having no rights to the child, a legality of which most of the grandparents and nonparental relatives are unaware;

(6) Many children who have their parental rights terminated are not adopted, and when they turn eighteen (18), they "age out" of the foster care system leaving them with no ties remaining to their biological family and no real family left;

(7) The procedures of termination of parental rights and adoption are statutorily created procedures, and the General Assembly has the constitutional authority to amend these procedures as times change to ensure the best interests of children are served; and

(8) Due to dramatic changes in society in the last twenty (20) years and the increase in the number of children whose relationships with their parents are legally terminated, a procedure is necessary to allow the continuation of relationships between the child and his or her grandparents and other nonparental relatives after termination of parental rights, adoption, or both, if the continuation of the relationship is in the best interest of the child.

SECTION 2. Arkansas Code Title 9, Chapter 9, Subchapter 2 is amended to add an additional section to read as follows:

9-9-225. Right of a nonparental relative to intervene in an adoption subsequent to termination of parental rights.

(a) As used in this section:

(1) "Child" means a child who:

(A) Has been the subject of proceedings for termination of parental rights initiated by the Division of Children and Family Services of the Department of Human Services;

(B) Has had the relationship with his or her parent or parents terminated and does not currently have a parent that is recognized under the law;

(C) Is currently in the custody of the division;

(D) Is currently the subject of an adoption petition under this chapter; and

(2) "Nonparental relative" means a person who is related to the child by blood within the fourth degree of consanguinity as determined under § 28-9-212 before the termination of parental rights.

(b) A nonparental relative of a child may intervene, present evidence, and fully participate in proceedings related to a petition for adoption of which the child is the subject and that is filed under this chapter.

(c) To determine whether the nonparental relative is granted visitation with the child under a temporary adoption decree or final adoption decree, the court shall consider whether the continuation of the relationship with the nonparental relative:

- (1) Is in the best interest of the child;
- (2) Will be unduly burdensome on the petitioners who seek to be the child's adoptive parents; and
- (3) Will result in the decision of the petitioners to withdraw or otherwise terminate the adoption proceedings.

SECTION 3. Arkansas Code § 9-9-223 is amended to read as follows:

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

Except as provided in this subchapter with regard to parental rights and nonparental relative rights under § 9-9-225, any rights to a child which a nonparental relative may derive through a parent or by court order may, ~~if the best interests of the child so require,~~ be terminated in connection with a proceeding for adoption or for termination of parental rights if the termination is in the best interests of the child."

The Amendment was read \_\_\_\_\_

By: Representative M. Burris

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Chief Clerk