

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

SENATE BILL 959

4
5 By: Senator Womack
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For An Act To Be Entitled

8
9 AN ACT TO PROTECT THE CHILDREN WHO ARE MOST
10 VULNERABLE BY CLARIFYING THE PUBLIC POLICY OF THE
11 STATE OF ARKANSAS REGARDING THE PLACEMENT OF
12 CHILDREN WITH AN ADOPTIVE OR FOSTER PARENT; TO
13 AUTHORIZE THE DEPARTMENT OF HEALTH AND HUMAN
14 SERVICES TO PROMULGATE RULES AND REGULATIONS; AND
15 FOR OTHER PURPOSES.
16

Subtitle

17
18 TO PROTECT THE CHILDREN WHO ARE MOST
19 VULNERABLE BY CLARIFYING THE PUBLIC
20 POLICY OF THE STATE OF ARKANSAS
21 REGARDING THE PLACEMENT OF CHILDREN WITH
22 AN ADOPTIVE OR FOSTER PARENT AND TO
23 AUTHORIZE DHHS TO PROMULGATE RULES.
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25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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28 SECTION 1. Arkansas Code § 9-9-204 is amended to read as follows:
29 9-9-204. Who may adopt.

30 (a) The following individuals may adopt:

31 (1) A husband and wife together although one (1) or both are
32 minors;

33 (2) An unmarried adult, except as provided under subsection (c)
34 of this section;

35 (3) The unmarried father or mother of the individual to be
36 adopted; and



1 (4) A married individual without the other spouse joining as a
2 petitioner, if the individual to be adopted is not his or her spouse; and if:

3 ~~(i)~~(A) The other spouse is a parent of the individual to
4 be adopted and consents to the adoption;

5 ~~(ii)~~(B) The petitioner and the other spouse are legally
6 separated; or

7 ~~(iii)~~(C) The failure of the other spouse to join in the
8 petition or to consent to the adoption is excused by the court by reason of
9 prolonged unexplained absence, unavailability, incapacity, or circumstances
10 constituting an unreasonable withholding of consent.

11 (b) A person eligible to adopt under this statute may not adopt if
12 that person is a homosexual.

13 (c)(1)(A) Except as provided in subdivision (c)(2) of this section, a
14 child shall not be adopted by an unmarried adult who is cohabiting in a
15 relationship that is not a legally valid and binding marriage under the
16 Arkansas Constitution.

17 (B) For the purposes of this subsection (c), "cohabiting"
18 means residing with another person and being involved in a sexual
19 relationship with that person.

20 (2) The limitations under subdivision (c)(1) of this section do
21 not apply to an unmarried adult who has any one (1) of the following
22 relationships with the child:

23 (A) A sibling;

24 (B) A stepparent;

25 (C) A grandparent;

26 (D) A great-grandparent; or

27 (E) Any other unmarried adult who:

28 (i) Is related to the child by blood or marriage;

29 (ii) Has demonstrated the ability to care for the
30 child; and

31 (iii) Is otherwise eligible to adopt the child.

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33 SECTION 2. Arkansas Code Title 9, Chapter 28, Subchapter 4 is amended
34 to add an additional section to read as follows:

35 9-28-412. Limitations on foster care placements.

36 (a) For the purposes of this section, "cohabiting" means residing with

1 another person and being involved in a sexual relationship with that person.

2 (b) Except as provided in subsection (c) of this section, a child
3 shall not be placed with a foster parent who is an unmarried adult and who is
4 cohabiting in a relationship that is not a legally valid and binding marriage
5 under the Arkansas Constitution.

6 (c) The limitations under subsection (b) of this section shall not
7 apply to an unmarried adult who has any one (1) of the following
8 relationships with the child:

9 (1) A sibling;

10 (2) A stepparent;

11 (3) A grandparent;

12 (4) A great-grandparent; or

13 (5) Any other unmarried adult who:

14 (i) Is related to the child by blood or marriage;

15 (ii) Has demonstrated the ability to care for the
16 child; and

17 (iii) Is otherwise eligible to be a foster parent to
18 the child.

19 (d) A person eligible to be a foster parent under this statute may not
20 be a foster parent if that person is a homosexual.

21 (e) To the extent that the rules are consistent with this section,
22 this section shall not limit the rule-making authority of:

23 (1) The Child Welfare Agency Review Board under § 9-28-405; or

24 (2) The Department of Health and Human Services as related to
25 its foster care programs.

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27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that it is the public policy of the
29 state to prohibit unmarried adults who are cohabiting in a relationship that
30 is not a legally valid or binding marriage under the Arkansas Constitution
31 from adopting a child or becoming a foster parent to a child, except in
32 limited circumstances; that it is the public policy of the State of Arkansas
33 to prohibit a homosexual adult from becoming an adoptive or foster parent;
34 and that this act is immediately necessary to protect the children who are
35 most vulnerable by clarifying the public policy of the state regarding the
36 placement of children with an adoptive or foster parent. Therefore, an

1 emergency is declared to exist and this act being immediately necessary for
2 the preservation of the public peace, health, and safety shall become
3 effective on:

4 (1) The date of its approval by the Governor;

5 (2) If the bill is neither approved nor vetoed by the Governor,
6 the expiration of the period of time during which the Governor may veto the
7 bill; or

8 (3) If the bill is vetoed by the Governor and the veto is
9 overridden, the date the last house overrides the veto.

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