

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015

# A Bill

HOUSE BILL 1752

4  
5 By: Representative House

## For An Act To Be Entitled

8 AN ACT TO CLARIFY THE PREFERENCE FOR A RELATIVE OVER  
9 A NONRELATIVE CAREGIVER FOR PLACEMENT OF A CHILD THAT  
10 IS IN THE CUSTODY OF THE DEPARTMENT OF HUMAN  
11 SERVICES; AND FOR OTHER PURPOSES.

## Subtitle

15 TO CLARIFY THE PREFERENCE FOR A RELATIVE  
16 OVER A NONRELATIVE CAREGIVER FOR  
17 PLACEMENT OF A CHILD THAT IS IN THE  
18 CUSTODY OF THE DEPARTMENT OF HUMAN  
19 SERVICES.

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21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23  
24 SECTION 1. Arkansas Code § 9-9-102 is amended to read as follows:

25 9-9-102. Religious preference – Removal of barriers to inter-ethnic  
26 adoption – Preference to relative caregivers for a child in foster care and  
27 adoption.

28 (a)(1) In all custodial placements by the Department of Human Services  
29 in foster care or adoption, the court shall give preferential consideration  
30 to ~~an adult relative~~ a person related by blood or adoption over a nonrelated  
31 caregiver, provided that the ~~relative caregiver~~ person related by blood or  
32 adoption meets all relevant child protection standards and it is in the best  
33 interest of the child to be placed with the ~~relative caregiver~~ person related  
34 by blood or adoption.

35 (2) Preferential consideration under subdivision (a)(1) of this  
36 section:



1                   (A) Shall be given in all placements of a child in the  
 2 custody of the department and not just the initial placement;

3                   (B) Continues after the termination of parental rights;

4                   (C) Is not a defense to a petition to terminate parental  
 5 rights; and

6                   (D) Does not grant any rights to persons related by blood  
 7 or adoption, including the right to intervene in any juvenile or adoption  
 8 proceeding.

9           (b) If the genetic parent or parents of the child express a preference  
 10 for placing the child in a foster home or an adoptive home of the same or a  
 11 similar religious background to that of the genetic parent or parents, the  
 12 court shall place the child with a family that meets the genetic parent's  
 13 religious preference, or if a family is not available, to a family of a  
 14 different religious background that is knowledgeable and appreciative of the  
 15 child's religious background.

16           (c) The court shall not deny a petition for adoption on the basis of  
 17 race, color, or national origin of the adoptive parent or the child involved.

18  
 19           SECTION 2. Arkansas Code § 9-9-223 is amended to read as follows:  
 20           9-9-223. Termination of rights of nonparental relatives.

21           (a) Except as provided in this subchapter with regard to parental  
 22 rights, any rights to a child which a nonparental relative may derive through  
 23 a parent or by court order may, if the best interests of the child so  
 24 require, be terminated in connection with a proceeding for adoption or for  
 25 termination of parental rights.

26           (b) A nonparental relative whose rights have been terminated shall not  
 27 impact the obligation of the court and the Department of Human Services to  
 28 give preferential consideration to a person related by blood or adoption over  
 29 a nonrelated caregiver provided that:

30                   (1) The relative caregiver meets all relevant child protection  
 31 standards; and

32                   (2) It is in the best interest of the child to be placed with  
 33 the person related by blood or adoption.

34           (c) Preferential consideration to place a child in the care of a  
 35 person related by blood or adoption over a nonrelated caregiver:

36                   (1) Shall be given in all placements of a child in the custody

1 of the department and not just the initial placement;

2 (2) Continues after the termination of parental rights;

3 (3) Is not a defense to a petition to terminate parental rights;

4 and

5 (4) Does not grant any rights to persons related by blood or  
 6 adoption, including the right to intervene in any juvenile or adoption  
 7 proceeding.

8  
 9 SECTION 3. Arkansas Code § 9-27-341(a)(2), concerning the termination  
 10 or a parent's rights to custody of a child, is amended to read as follows:

11 (2)(A) This section shall be used only in cases in which the  
 12 department is attempting to clear a juvenile for permanent placement.

13 (B) A potential adoption, guardianship, permanent custody  
 14 or placement of a child with a relative is not a defense by a parent in a  
 15 proceeding to terminate parental rights.

16  
 17 SECTION 4. Arkansas Code § 9-27-355(b)(1), concerning the placement of  
 18 a child with a relative, is amended to read as follows:

19 (b)(1)(A) A relative of a juvenile placed in the custody of the  
 20 Department of Human Services shall be given preferential consideration for  
 21 placement if the relative caregiver meets all relevant child protection  
 22 standards and it is in the best interest of the juvenile to be placed with  
 23 the relative caregiver.

24 (B) Preferential consideration to place a child in the  
 25 care of a person related by blood or adoption over a nonrelated caregiver:

26 (i) Shall be given in all placements of a child in  
 27 the custody of the department and not just the initial placement;

28 (ii) Continues after the termination of parental  
 29 rights;

30 (iii) Is not a defense to a petition to terminate  
 31 parental rights; and

32 (iv) Does not grant any rights to persons related by  
 33 blood or adoption, including the right to intervene in any juvenile or  
 34 adoption proceeding.

35  
 36 SECTION 5. Arkansas Code § 9-28-105 is amended to read as follows:

1           (a) In all custodial placements by the Department of Human Services in  
2 foster care or adoption, preferential consideration shall be given to an  
3 adult relative over a nonrelated caregiver, if:

4                   (1) The relative caregiver meets all relevant child protection  
5 standards; and

6                   (2) It is in the best interest of the child to be placed with  
7 the relative caregiver.

8           (b) Preferential consideration to place a child in the care of a  
9 person related by blood or adoption over a nonrelated caregiver:

10                   (1) Shall be given in all placements of a child in the custody  
11 of the department and not just the initial placement;

12                   (2) Continues after the termination of parental rights;

13                   (3) Is not a defense to a petition to terminate parental rights;

14 and

15                   (4) Does not grant any rights to persons related by blood or  
16 adoption, including the right to intervene in any juvenile or adoption  
17 proceeding.