

Hall of the House of Representatives

85th General Assembly - Regular Session, 2005

Amendment Form

Subtitle of House Bill No. 1119

"TO CLARIFY THAT THE DEPARTMENT OF HUMAN SERVICES SHALL NOT PLACE A
CHILD WITH AN ADOPTIVE OR FOSTER PARENT WHO IS HOMOSEXUAL OR IN A
HOME WHERE AN ADULT HOMOSEXUAL RESIDES."

Amendment No. 2 to House Bill No. 1119.

Amend House Bill No. 1119 as engrossed, H1/24/05 (version: 01-24-2005 08:42)::

Page 1, delete the title in its entirety and substitute the following:

"AN ACT TO PROTECT THE CHILDREN WHO ARE MOST VULNERABLE BY CLARIFYING THE
PUBLIC POLICY OF THE STATE OF ARKANSAS REGARDING THE PLACEMENT OF CHILDREN
WITH AN ADOPTIVE OR FOSTER PARENT; AND FOR OTHER PURPOSES."

AND

Page 1, delete the subtitle in its entirety and substitute the following:

"TO PROTECT THE CHILDREN WHO ARE MOST
VULNERABLE BY CLARIFYING THE PUBLIC
POLICY OF THE STATE OF ARKANSAS
REGARDING THE PLACEMENT OF CHILDREN WITH
AN ADOPTIVE OR FOSTER PARENT."

AND

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 9-9-204 is amended to read as follows:
9-9-204. Who may adopt.

(a) The following individuals may adopt:

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

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

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

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

(i) The other spouse is a parent of the individual



to be adopted and consents to the adoption;

(ii) The petitioner and the other spouse are legally separated; or

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

(b)(1)(A) Except as provided in subdivision (b)(2) of this section, a child shall not be adopted by an unmarried adult who is:

(i) Cohabiting in a relationship that is not a legally valid and binding marriage under the Constitution of the State of Arkansas; or

(ii) Less than ten (10) years older than the child that he or she is seeking to adopt.

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

(2) The limitations under subdivision (b)(1) of this section shall not apply to an unmarried adult who has any one (1) of the following relationships with the child:

(A) A sibling;

(B) A step-parent;

(C) A grandparent;

(D) A great-grandparent; or

(E) Any other unmarried adult who:

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

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

(iii) Is otherwise eligible to adopt the child.

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

9-28-411. Limitation.

(a) For the purposes of this section, "cohabiting" means residing with another person and being involved in a sexual relationship with that person.

(b) Except as provided in subsection (c) of this section, a child shall not be placed with a foster parent who is an unmarried adult and who is:

(1) Cohabiting in a relationship that is not a legally valid and binding marriage under the Constitution of the State of Arkansas; or

(2) Less than ten (10) years older than the child that he or she is seeking to foster parent.

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

(1) A sibling;

(2) A step-parent;

(3) A grandparent;

(4) A great-grandparent; or

(5) Any other unmarried adult who:

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

(ii) Has demonstrated the ability to care for the child;
and
(iii) Is otherwise eligible to be a foster parent to the
child.

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

(1) The Child Welfare Agency Review Board under § 9-28-405; or
(2) The Department of Human Services as related to its foster
care programs.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
General Assembly of the State of Arkansas that it is the public policy of the
state to prohibit unmarried adults who are cohabitating in a relationship
that is not a legally valid or binding marriage under the Constitution of the
State of Arkansas from adopting a child or becoming a foster parent to a
child, except in limited circumstances; that it is the public policy of the
State of Arkansas to prohibit unmarried adults who are less than ten (10)
years older than the child that he or she is seeking to adopt or foster
parent to become an adoptive or foster parent, except in limited
circumstances; and that this act is immediately necessary to protect the
children who are most vulnerable by clarifying the public policy of the state
regarding the placement of children with an adoptive or foster parent.
Therefore, an emergency is declared to exist and this act being immediately
necessary for the preservation of the public peace, health, and safety shall
become effective on:

(1) The date of its approval by the Governor;
(2) If the bill is neither approved nor vetoed by the Governor,
the expiration of the period of time during which the Governor may veto the
bill; or
(3) If the bill is vetoed by the Governor and the veto is
overridden, the date the last house overrides the veto.”

The Amendment was read _____
By: Representative Adams
JSE/VLH - 01-31-2005 11:38
JSE164 _____
Chief Clerk