

1 INTERIM STUDY PROPOSAL 2015-077

2 State of Arkansas

*As Engrossed: H3/17/15*

3 90th General Assembly

# A Bill

4 Regular Session, 2015

HOUSE BILL 1670

5  
6 By: Representative Lowery

7 Filed with: House Committee on Aging, Children and Youth, Legislative and Military Affairs  
8 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

9  
10 AN ACT TO PROTECT THE PARENTAL RIGHTS OF A PUTATIVE  
11 FATHER; TO VACATE AN ADOPTION WITHIN SIX (6) MONTHS  
12 FROM THE FINAL ADOPTION ORDER UPON EVIDENCE OF FRAUD  
13 OR A LACK OF KNOWLEDGE OF THE CHILD'S EXISTENCE; AND  
14 FOR OTHER PURPOSES.

## Subtitle

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18 TO PROTECT THE PARENTAL RIGHTS OF A  
19 PUTATIVE FATHER; AND TO VACATE AN  
20 ADOPTION WITHIN SIX (6) MONTHS FROM THE  
21 FINAL ADOPTION ORDER UPON EVIDENCE OF  
22 FRAUD OR A LACK OF KNOWLEDGE OF THE  
23 CHILD'S EXISTENCE.

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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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28 *SECTION 1. Arkansas Code Title 9, Chapter 9, is amended to add an*  
29 *additional subchapter to read as follows:*

### Subchapter 8 – Putative Father Parental Rights

#### 9-9-801. Putative father – Vacate order – Notice of rights.

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33 (a)(1) Upon signing an acknowledgment of paternity or registering with  
34 the Division of Vital Records of the Department of Health to have an alleged  
35 father's name placed on the Putative Father Registry regarding a specific  
36 minor, a putative father may:

1                   (A) Petition for adjudication of paternity; and

2                   (B) Petition the court to set aside the order of adoption  
3 within six (6) months from the date of the final adoption order.

4                   (2) The court may vacate an order of adoption if the putative  
5 father:

6                   (A) Did not have knowledge of the child's existence before  
7 the adoption or was prevented from registering with the Putative Father  
8 Registry due to fraud, deception, or other misconduct by the natural mother  
9 or adoptive parents; and

10                   (B) Has established paternity.

11                   (b)(1) When a putative father has provided evidence that he meets the  
12 requirements under subsection (a) of this section, a presumption will arise  
13 that it is in the best interest of the child that the father have parental  
14 rights to the child and custody of the child.

15                   (2)(A) The presumption in subdivision (b)(1) of this section may  
16 be rebutted by a preponderance of the evidence that it is not in the best  
17 interest of the child to be removed from the custody of the adoptive parent  
18 or parents.

19                   (B) When considering whether or not it is in the best  
20 interest of the child to be removed from the custody of the adoptive parent  
21 or parents, the court may consider, without limitation, the following:

22                   (i) The age, developmental stage, needs of the  
23 child, and the likely impact the change of custody will have on the child's  
24 physical, educational, and emotional development, taking into consideration  
25 any special needs of the child;

26                   (ii) The preference of the child, taking into  
27 consideration the age and maturity of the child;

28                   (iii) The degree to which a change in custody will  
29 result in uprooting the child;

30                   (iv) Whether the father is able to provide emotional  
31 and financial support to the child;

32                   (v) A history of substance abuse, harassment, or  
33 violence or child abuse by the father, including a consideration of the  
34 severity of the conduct and the failure or success of any attempts at  
35 rehabilitation;

