1	INTERIM STUDY PROPOSAL 2015-077
2	State of Arkansas As Engrossed: H3/17/15
3	90th General Assembly A B1II
4	Regular Session, 2015HOUSE 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.
9	For An Act To Be Entitled
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.
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17	Subtitle
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:
30	<u>Subchapter 8 — Putative Father Parental Rights</u>
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32	<u>9-9-801. Putative father — Vacate order — Notice of rights.</u>
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:

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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	<u>father:</u>
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	<u>or parents.</u>
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;

1	(vi) The reasons why the father failed to protect
2	his parental rights;
3	(vii) The length of time the child has resided with
4	the adoptive parent or parents;
5	(viii) Whether the adoptive parent or parents were
6	aware of the identity the father; and
7	(ix) Any other factor that in the opinion of the
8	court is material to the general issue or otherwise provided by law.
9	(c)(1) If a court finds that the putative father did not expressly or
10	impliedly consent to the adoption, the agency, attorney, or pro se party who
11	filed the petition for adoption shall give the adoptive parent or parents a
12	statement of legal risk indicating the legal status of the putative father's
13	potential parental rights under this section.
14	(2) The adoptive parent or parents shall sign the statement of
15	legal risk, and the agency, attorney, or pro se party shall file the legal
16	statement of risk with the court.
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18	/s/Lowery
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21	Referred by the Arkansas House of Representatives
22	Prepared by: VJF
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