

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 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H1/24/05 H2/1/05

# A Bill

HOUSE BILL 1119

5 By: Representative Adams  
6 By: Senator Holt  
7  
8

## For An Act To Be Entitled

9  
10 AN ACT TO PROTECT THE CHILDREN WHO ARE MOST  
11 VULNERABLE BY CLARIFYING THE PUBLIC POLICY OF THE  
12 STATE OF ARKANSAS REGARDING THE PLACEMENT OF  
13 CHILDREN WITH AN ADOPTIVE OR FOSTER PARENT; AND  
14 FOR OTHER PURPOSES.

### Subtitle

15  
16 TO PROTECT THE CHILDREN WHO ARE MOST  
17 VULNERABLE BY CLARIFYING THE PUBLIC  
18 POLICY OF THE STATE OF ARKANSAS  
19 REGARDING THE PLACEMENT OF CHILDREN WITH  
20 AN ADOPTIVE OR FOSTER PARENT.  
21  
22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
24

25 SECTION 1. Arkansas Code § 9-9-204 is amended to read as follows:  
26 9-9-204. Who may adopt.

27 (a) The following individuals may adopt:

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

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

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

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

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



1 to be adopted and consents to the adoption;

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

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

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

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

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

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

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

21 (A) A sibling;

22 (B) A step-parent;

23 (C) A grandparent;

24 (D) A great-grandparent; or

25 (E) Any other unmarried adult who:

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

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

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

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

33 9-28-411. Limitation.

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

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

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

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

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

11 (1) A sibling;

12 (2) A step-parent;

13 (3) A grandparent;

14 (4) A great-grandparent; or

15 (5) Any other unmarried adult who:

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

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

18 and

19 (iii) Is otherwise eligible to be a foster parent to the  
20 child.

21 (d) 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 Human Services as related to its foster  
25 care programs.

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27 SECTION 4. 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  
30 that is not a legally valid or binding marriage under the Constitution of the  
31 State of Arkansas from adopting a child or becoming a foster parent to a  
32 child, except in limited circumstances; that it is the public policy of the  
33 State of Arkansas to prohibit unmarried adults who are less than ten (10)  
34 years older than the child that he or she is seeking to adopt or foster  
35 parent to become an adoptive or foster parent, except in limited  
36 circumstances; and that this act is immediately necessary to protect the

1 children who are most vulnerable by clarifying the public policy of the state  
2 regarding the placement of children with an adoptive or foster parent.

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

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

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

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

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13 /s/ Adams  
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