

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 86th General Assembly
3 Regular Session, 2007
4
5 By: Representative Key
6
7

A Bill

HOUSE BILL 1485

For An Act To Be Entitled

9 AN ACT TO AMEND THE "REVISED UNIFORM ADOPTION
10 ACT", ARKANSAS CODE § 9-9-201 ET SEQ.; TO AMEND
11 PROVISIONS OF THE "STREAMLINE ADOPTION ACT",
12 ARKANSAS CODE § 9-9-701; AND FOR OTHER PURPOSES.

Subtitle

15 TO AMEND THE "REVISED UNIFORM ADOPTION
16 ACT" AND THE "STREAMLINE ADOPTION ACT".
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 9-9-205(e), regarding the jurisdiction and
22 venue for adoptions and the petition for adoption, is amended to read as
23 follows:

24 (e) If the child is placed for adoption ~~by an agency~~, any name by
25 which the child was previously known ~~shall not~~ may be disclosed in the
26 petition, the notice of hearing, or in the decree of adoption.
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28 SECTION 2. Arkansas Code § 9-9-206(a), regarding consent for adoption,
29 is amended to read as follows:

30 (a) Unless consent is not required under § 9-9-207, a petition to
31 adopt a minor may be granted only if written consent to a particular adoption
32 has been executed by:

33 (1) The mother of the minor;

34 (2) The father of the minor if the father was married to the
35 mother at the time the minor was conceived or at any time thereafter, the
36 minor is his child by adoption, he has physical custody of the minor at the



1 time the petition is filed, he has a written order granting him legal custody
2 of the minor at the time the petition for adoption is filed, a court has
3 adjudicated him to be the legal father prior to the time the petition for
4 adoption is filed, or he proves a significant custodial, personal, or
5 financial relationship existed with the minor before the petition for
6 adoption is filed;

7 (3) Any person lawfully entitled to custody of the minor or
8 empowered to consent;

9 (4) The court having jurisdiction to determine custody of the
10 minor, if the legal guardian or custodian of the person of the minor is not
11 empowered to consent to the adoption;

12 (5) The minor, if more than ten (10) years of age, unless the
13 court in the best interest of the minor dispenses with the minor's consent;
14 and

15 (6) The spouse of the minor to be adopted.

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17 SECTION 3. Arkansas Code § 9-9-207(a) regarding persons to whom
18 consent is not required for adoptions, is amended to read as follows:

19 (a) Consent to adoption is not required of:

20 (1) a A parent who has deserted a child without affording means
21 of identification or who has abandoned a child;

22 (2) a A parent of a child in the custody of another, if the
23 parent for a period of at least one (1) year has failed significantly without
24 justifiable cause to:

25 ~~(i)(A) to communicate~~ Communicate with the child; or

26 ~~(ii)(B) to provide~~ Provide for the care and support of the
27 child as required by law or judicial decree;

28 (3) ~~the~~ The father of a minor if the father's consent is not
29 required by § 9-9-206(a)(2);

30 (4) a A parent who has relinquished his or her right to consent
31 under § 9-9-220;

32 (5) a A parent whose parental rights have been terminated by
33 order of court under § 9-9-220 or § 9-27-341;

34 (6) a A parent judicially declared incompetent or mentally
35 defective if the court dispenses with the parent's consent;

36 (7) ~~any~~ Any parent of the individual to be adopted, if the

1 individual is an adult;

2 (8) ~~any~~ Any legal guardian or lawful custodian of the individual
3 to be adopted, other than a parent, who has failed to respond in writing to a
4 request for consent for a period of sixty (60) days or who, after examination
5 of his or her written reasons for withholding consent, is found by the court
6 to be withholding his or her consent unreasonably;

7 (9) ~~the~~ The spouse of the individual to be adopted, if the
8 failure of the spouse to consent to the adoption is excused by the court by
9 reason of prolonged unexplained absence, unavailability, incapacity, or
10 circumstances constituting an unreasonable withholding of consent;

11 (10) ~~a~~ A putative father of a minor who signed an
12 acknowledgement of paternity but who failed to establish a significant
13 custodial, personal, or financial relationship with the juvenile prior to the
14 time the petition for adoption is filed; ~~or~~

15 (11) ~~a~~ A putative father of a minor who is listed on the
16 Putative Father Registry but who failed to establish a significant custodial,
17 personal, or financial relationship with the juvenile prior to the time the
18 petition for adoption is filed;

19 (12) A legal father, excluding an adoptive father, who has been
20 determined by paternity testing not to be the biological father; or

21 (13) A putative father who has been determined by paternity
22 testing not to be the biological father.

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24 SECTION 4. Arkansas Code § 9-9-212 is amended to read as follows:

25 9-9-212. Hearing on petition - Requirements.

26 (a)(1) Before any hearing on a petition, the period in which the
27 relinquishment may be withdrawn under § 9-9-220 or in which consent may be
28 withdrawn under § 9-9-209, whichever is applicable, must have expired.

29 (2) No orders of adoption, interlocutory or final, may be
30 entered prior to the period for withdrawal.

31 (3) After the filing of a petition to adopt a minor, the court
32 shall fix a time and place for hearing the petition.

33 (4) At least twenty (20) days before the date of hearing, notice
34 of the filing of the petition and of the time and place of hearing shall be
35 given by the petitioner to:

36 (A)(i) Any agency or person whose consent to the adoption

1 is required by this subchapter but who has not consented; ~~and~~

2 (ii) Any legal guardian of the child;

3 (iii) Any person lawfully entitled to custody or
4 empowered to consent;

5 (iv) An adoptive father;

6 (v) A legal father who has not been excluded by
7 paternity testing as not being the biological father;

8 (vi) A father who has physical custody of the minor
9 at the time that the adoption petition is filed; and

10 (vii) A putative father who has registered with the
11 Putative Father Registry.

12 (B) ~~A person whose consent is dispensed with upon any~~
13 ~~ground mentioned in § 9-9-207(a)(1), (2), (6), (8), and (9)~~ Notice is not
14 required to a person or an agency that is not listed in subdivision (a)(4)(A)
15 of this section.

16 (C)(i) If a putative father has signed an acknowledgement of
17 paternity or claims to have a significant custodial, personal, or financial
18 relationship with the minor that existed before the petition for adoption was
19 filed, the court shall set an expedited hearing to allow the putative father
20 the opportunity to prove that he has established a significant custodial,
21 personal, or financial relationship with the minor before the petition for
22 adoption was filed.

23 (ii) The putative father shall be provided with written
24 notice ten (10) days before the date of the expedited hearing.

25 (iii) The expedited hearing shall be a separate hearing
26 from any hearings in the adoption matter.

27 (iv) A continuance not to exceed thirty (30) days may be
28 granted if the putative father makes a prima facie showing that a significant
29 custodial, personal, or financial relationship existed with the minor before
30 the petition for adoption was filed.

31 (5)(A) When the petitioner alleges that any person entitled to
32 notice cannot be located, the court shall appoint an attorney ad litem who
33 shall make a reasonable effort to locate and serve notice upon the person
34 entitled to notice; and upon failing to so serve actual notice, the attorney
35 ad litem shall publish a notice of the hearing directed to the person
36 entitled to notice in a newspaper having general circulation in the county

1 one (1) time a week for four (4) weeks, the last publication being at least
2 seven (7) days prior to the hearing.

3 (B) Before the hearing, the attorney ad litem shall file a
4 proof of publication and an affidavit reciting the efforts made to locate and
5 serve actual notice upon the person entitled to notice.

6 (b)(1)(A) Before placement of the child in the home of the petitioner,
7 a home study shall be conducted by any child welfare agency licensed under
8 the Child Welfare Agency Licensing Act, § 9-28-401 et seq., or any licensed
9 certified social worker.

10 (B) Home studies on non-Arkansas residents may also be
11 conducted by a person or agency in the same state as the person wishing to
12 adopt as long as the person or agency is authorized under the law of that
13 state to conduct home studies for adoptive purposes.

14 (2) The Department of Health and Human Services shall not be
15 ordered by any court, except the juvenile division of circuit court, to
16 conduct a home study, unless:

17 (A) The court has first determined the responsible party
18 to be indigent; and

19 (B) The person to be studied lives in the State of
20 Arkansas.

21 (3) All home studies shall be prepared and submitted in
22 conformity with the regulations promulgated pursuant to the Child Welfare
23 Agency Licensing Act, § 9-28-401 et seq.

24 (4)(A) The home study shall address whether the adoptive home is
25 a suitable home, and shall include a recommendation as to the approval of the
26 petitioner as an adoptive parent.

27 (B) A written report of the home study shall be filed with
28 the court before the petition is heard.

29 (C) The home study shall contain an evaluation of the
30 prospective adoption with a recommendation as to the granting of the petition
31 for adoption and any other information the court requires regarding the
32 petitioner or minor.

33 (5)(A) The home study shall include a state-of-residence
34 criminal background check, if available, and national fingerprint-based
35 criminal background check on the adoptive parents and all household members
36 age sixteen (16) and older.

1 (B) If a prospective adoptive parent has lived in a state
 2 for at least six (6) years immediately prior to adoption, then only a state-
 3 of-residence criminal background check shall be required.

4 (C) If the Department of Health and Human Services has
 5 responsibility for placement and care of the child to be adopted, the home
 6 study shall include a national fingerprint-based criminal background check on
 7 the prospective adoptive parents and all household members sixteen (16) years
 8 of age or older.

9 (D) Upon request by the department, local law enforcement
 10 shall provide the department with criminal background information on the
 11 prospective adoptive parents and all household members sixteen (16) years of
 12 age and older who have applied to be an adoptive family.

13 (6) A child maltreatment central registry check shall be
 14 required for all household members age ten (10) and older as a part of the
 15 home study, if such a registry is available in their state of residence.

16 (7) Additional national fingerprint-based criminal background
 17 checks are not required for international adoptions as they are already a
 18 part of the requirements for adoption of the federal Bureau of Citizenship
 19 and Immigration Services of the Department of Homeland Security.

20 (8) Each prospective adoptive parent shall be responsible for
 21 payment of the costs of the criminal background checks and shall be required
 22 to cooperate with the requirements of the Department of Arkansas State Police
 23 and the child maltreatment central registry, if available, with regard to the
 24 criminal and central registry background checks, including, but not limited
 25 to, signing a release of information.

26 (9)(A) Upon completion of the criminal record checks, the
 27 Department of Arkansas State Police shall forward all information obtained to
 28 either the department if it is conducting the home study, to the agency, to
 29 the licensed certified social worker, or to the court in which the adoption
 30 petition will be filed.

31 (B) The Department of Arkansas State Police shall forward
 32 all information obtained from the national fingerprint-based criminal
 33 background checks to either the department, if it is doing the home study, or
 34 to the court in which the adoption petition will be filed.

35 (C) The circuit clerk of the county where the petition for
 36 adoption has been or will be filed shall keep a record of the national

1 fingerprint-based criminal background checks for the court.

2 (c) Unless directed by the court, a home study is not required in
 3 cases in which the person to be adopted is an adult. The court may also waive
 4 the requirement for a home study when a stepparent is the petitioner or the
 5 petitioner and the minor are related to each other in the second degree.

6 (d)(1) After the filing of a petition to adopt an adult, the court by
 7 order shall direct that a copy of the petition and a notice of the time and
 8 place of the hearing be given to any person whose consent to the adoption is
 9 required but who has not consented.

10 (2) The court may order a home study to assist it in determining
 11 whether the adoption is in the best interest of the persons involved.

12 (3) The Department of Health and Human Services shall not be
 13 ordered by any court, except the juvenile division of circuit court, to
 14 conduct a home study unless:

15 (A) The court has first determined the responsible party
 16 to be indigent; and

17 (B) The person to be studied lives in the State of
 18 Arkansas.

19 (4) All home studies shall be prepared and submitted in
 20 conformity with the regulations promulgated pursuant to the Child Welfare
 21 Agency Licensing Act, § 9-28-401 et seq.

22 (e)(1) Notice shall be given in the manner appropriate under rules of
 23 civil procedure for the service of process in a civil action in this state or
 24 in any manner the court by order directs.

25 (2) Proof of the giving of the notice shall be filed with the
 26 court before the petition is heard.

27 (3) Where consent is not required, notice may be by certified
 28 mail with return receipt requested.

29 (f) When one (1) parent of a child or children is deceased, and the
 30 parent-child relationship has not been eliminated at the time of death, and
 31 adoption proceedings are instituted subsequent to such decease, the parents
 32 of the deceased parent shall be notified under the procedures prescribed in
 33 this subchapter of such adoption proceedings, except when the surviving
 34 parent-child relationship has been terminated pursuant to § 9-27-341.

35 (g)(1)(A) Except as provided under subdivision (g)(2) of this section,
 36 before placement for adoption, the licensed adoption agency or, when an

1 agency is not involved, the person, entity, or organization handling the
2 adoption shall compile and provide to the prospective adoptive parents a
3 detailed, written health history and genetic and social history of the child
4 that excludes information that would identify birth parents or members of a
5 birth parent's family.

6 (B) The detailed, written health history and genetic and
7 social history shall be set forth in a document that is separate from any
8 document containing information identifying the birth parents or members of a
9 birth parent's family.

10 (C) The detailed, written health history and genetic and
11 social history shall be clearly identified and shall be filed with the clerk
12 before the entry of the adoption decree.

13 (D) Upon order of the court for good cause shown, the
14 clerk may tender to a person identified by the court a copy of the detailed,
15 written health history and genetic and social history.

16 (2) Unless directed by the court, a detailed, written health
17 history and genetic and social history of the child is not required if:

18 (A) The person to be adopted is an adult;

19 (B) The petitioner is a stepparent; or

20 (C) The petitioner and the child to be adopted are related
21 to each other within the second degree of consanguinity.

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23 SECTION 5. Arkansas Code § 9-9-219 is amended to read as follows:
24 9-9-219. Application for new birth record.

25 ~~Within thirty (30) days after an adoption decree becomes final~~ Upon
26 entry of a final decree of adoption or an interlocutory decree of adoption
27 that does not require a subsequent hearing, the clerk of the court shall
28 prepare an application for a birth record in the new name of the adopted
29 individual and forward the application to the appropriate vital statistics
30 office of the place, if known, where the adopted individual was born and
31 forward a copy of the decree to the ~~Department of Health~~, Division of Vital
32 Records of the Division of Health of the Department of Health and Human
33 Services, for statistical purposes. The division may issue a birth
34 certificate for any child born in a place whose law does not provide for the
35 issuance of a substituted certificate.

1 SECTION 6. Arkansas Code § 9-9-701 is amended to read as follows:

2 9-9-701. Streamlined adoptions by the Department of Health and Human
3 Services.

4 (a)(1) A family who adopts a child from the Department of Health and
5 Human Services shall be eligible for the streamlined adoption process if the
6 family chooses to adopt another child from the department and the department
7 selects the family to be the adoptive parents of a child in the custody of
8 the department.

9 (2) The adoptive family is not eligible for the streamlined
10 adoption process if more than five (5) years have passed since the adoptive
11 family finalized the adoption of a child placed by the department in the
12 adoptive home.

13 ~~(b)(1) One (1) year after the placement of a child in the adoptive~~
14 ~~home and except as provided in subdivision (b)(2) of this section, the~~
15 ~~adoptive family shall be eligible for placement of a subsequent child in the~~
16 ~~adoptive home for the purposes of adoption.~~

17 ~~(2) When the subsequent child to be placed in the adoptive home~~
18 ~~is the sibling of a child already placed in the adoptive home, the adoptive~~
19 ~~family may be immediately eligible for adoption of the sibling.~~

20 ~~(e)(b)~~ Upon contact by the adoptive family ~~and if one (1) year has~~
21 ~~passed since placement of a child in the adoptive home, the department shall:~~

22 (1)(A) Obtain a copy of the original home study completed on the
23 adoptive family.

24 (B) If needed, the department shall unseal the adoption
25 file from the previous adoption pursuant to § 9-9-217(a) in order to obtain a
26 copy of the original home study on the adoptive family; and

27 (2) Complete an update to the original home study within forty-
28 five (45) business days from contact by the adoptive family.

29 ~~(d)(c)~~ The adoptive family shall be required to obtain updated
30 criminal background checks and central registry checks as outlined in this
31 chapter.

32 ~~(e)(d)~~ The department shall not require the adoptive family to attend
33 training.

34 ~~(f)(e)~~ The department shall place the adoptive family in the pool of
35 waiting adoptive families eligible to adopt a child from the department upon:

36 (1) Completion of the updated home study that is favorable; and

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(2) Receipt of the:

(A) Criminal background check; and

(B) Central registry check.

~~(g)(1)~~(f)(1) A family who has a foster child in its home who was placed by the department shall be eligible for the streamlined adoption process if the department selects the ~~family's parents~~ foster family to be the adoptive ~~parents~~ family of the foster child.

(2) Upon selection, the department shall complete the adoptive home study within forty-five (45) business days.

(3) The department shall not require the foster family to attend training.