

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/24/09

A Bill

HOUSE BILL 2016

5 By: Representative M. Burris
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For An Act To Be Entitled

9 AN ACT TO PROVIDE A MECHANISM FOR A GRANDPARENT
10 OR OTHER NONPARENTAL RELATIVE TO MAINTAIN HIS OR
11 HER RELATIONSHIP WITH HIS OR HER GRANDCHILD OR
12 OTHER RELATIVE CHILD AFTER THE CHILD IS ADOPTED;
13 AND FOR OTHER PURPOSES.
14

Subtitle

15 TO PROVIDE A MECHANISM FOR A GRANDPARENT
16 OR OTHER NONPARENTAL RELATIVE TO
17 MAINTAIN HIS OR HER RELATIONSHIP WITH A
18 CHILD AFTER THE CHILD IS ADOPTED.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Legislative findings. The General Assembly finds that:

25 (1) In Arkansas, more than thirty-three thousand six hundred
26 (33,600) grandparents are responsible for grandchildren living with them and
27 twenty-two percent (22%) of the grandparents and grandchildren live in
28 poverty;

29 (2) Many grandparents who love their grandchildren dearly are
30 unable to be responsible for them on a daily basis because of their age,
31 health conditions, limited fixed incomes, or a combination of these factors;

32 (3) Because they are unable to care for their grandchildren and
33 the parents of the children are unable, unwilling, or unfit to care for the
34 children, the children are placed in the custody of the Division of Family
35 Services of the Department of Human Services and in foster care;

36 (4) Because permanency is a goal of children in foster care, the



1 division often seeks termination of parental rights so that the child can be
2 adopted;

3 (5) Termination of parental rights results in the grandparent
4 and other nonparental relatives of the child who have attachments to the
5 child being declared for all legal purposes as not related to the child and
6 having no rights to the child, a legality of which most of the grandparents
7 and nonparental relatives are unaware;

8 (6) Many children who have their parental rights terminated are
9 not adopted, and when they turn eighteen (18), they “age out” of the foster
10 care system leaving them with no ties remaining to their biological family
11 and no real family left;

12 (7) The procedures of termination of parental rights and
13 adoption are statutorily created procedures, and the General Assembly has the
14 constitutional authority to amend these procedures as times change to ensure
15 the best interests of children are served; and

16 (8) Due to dramatic changes in society in the last twenty (20)
17 years and the increase in the number of children whose relationships with
18 their parents are legally terminated, a procedure is necessary to allow the
19 continuation of relationships between the child and his or her grandparents
20 and other nonparental relatives after termination of parental rights,
21 adoption, or both, if the continuation of the relationship is in the best
22 interest of the child.

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

26 9-9-225. Right of a nonparental relative to intervene in an adoption
27 subsequent to termination of parental rights.

28 (a) As used in this section:

29 (1) “Child” means a child who:

30 (A) Has been the subject of proceedings for termination of
31 parental rights initiated by the Division of Children and Family Services of
32 the Department of Human Services;

33 (B) Has had the relationship with his or her parent or
34 parents terminated and does not currently have a parent that is recognized
35 under the law;

36 (C) Is currently in the custody of the division;

1 (D) Is currently the subject of an adoption petition under
2 this chapter; and

3 (2) "Nonparental relative" means a person who is related to the
4 child by blood within the fourth degree of consanguinity as determined under
5 § 28-9-212 before the termination of parental rights.

6 (b) A nonparental relative of a child may intervene, present evidence,
7 and fully participate in proceedings related to a petition for adoption of
8 which the child is the subject and that is filed under this chapter.

9 (c) To determine whether the nonparental relative is granted
10 visitation with the child under a temporary adoption decree or final adoption
11 decree, the court shall consider whether the continuation of the relationship
12 with the nonparental relative:

13 (1) Is in the best interest of the child;

14 (2) Will be unduly burdensome on the petitioners who seek to be
15 the child's adoptive parents; and

16 (3) Will result in the decision of the petitioners to withdraw
17 or otherwise terminate the adoption proceedings.

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19 SECTION 3. Arkansas Code § 9-9-223 is amended to read as follows:

20 9-9-223. ~~Termination of rights~~ Rights of nonparental relatives.

21 Except as provided in this subchapter with regard to parental rights
22 and nonparental relative rights under § 9-9-225, any rights to a child which
23 a nonparental relative may derive through a parent or by court order may, ~~if~~
24 ~~the best interests of the child so require~~, be terminated in connection with
25 a proceeding for adoption or for termination of parental rights if the
26 termination is in the best interests of the child.

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28 /s/ M. Burris
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