

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: H2/24/21

A Bill

HOUSE BILL 1379

5 By: Representative Penzo
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CONSENT TO
9 ADOPTION AND RELINQUISHMENT OF PARENTAL RIGHTS DURING
10 THE ADOPTION PROCESS; CONCERNING THE REPORT OF
11 EXPENDITURES RELATED TO AN ADOPTION; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING CONSENT TO
16 ADOPTION AND RELINQUISHMENT OF PARENTAL
17 RIGHTS DURING THE ADOPTION PROCESS; AND
18 CONCERNING THE REPORT OF EXPENDITURES
19 RELATED TO AN ADOPTION.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 *SECTION 1. Arkansas Code § 9-9-208, concerning the execution of*
26 *consent to adoption, is amended to add additional subsections to read as*
27 *follows:*

28 *(d)(1) A parent whose consent to adoption is required under this*
29 *subchapter shall have limited, independent legal representation for the*
30 *purpose of:*

31 *(A) Executing the consent to adoption; and*

32 *(B) Withdrawing the consent to adoption if the parent*
33 *elects to withdraw the consent as permitted under this subchapter.*

34 *(2) The attorney:*

35 *(A) Shall not represent any other party in the adoption;*

36 *and*



1 (B) Shall certify, by signing the writing after its
2 execution by the parent, that:

3 (i) The attorney has explained to the parent the
4 effect of consenting to the adoption; and

5 (ii) The parent appeared to consent voluntarily and
6 of his or her own free will.

7 (3) This subsection shall not apply to an adoption if the
8 petitioner is:

9 (A) A stepparent whose spouse is a natural or adoptive
10 parent of the child to be adopted;

11 (B) Related to the child to be adopted within the second
12 degree as defined in § 28-9-212; or

13 (C) Represented by an attorney pro bono in the adoption
14 proceeding.

15 (4)(A) A parent whose consent to adoption is required under this
16 subchapter may elect not to be represented by an independent attorney as
17 provided in subdivision (d)(1) of this section by signing under oath, in the
18 presence of a notary public, an affidavit that includes the following:

19 (i) A statement that the parent understands that he
20 or she has been offered limited representation by an attorney, who does not
21 also represent the petitioner, to provide him or her with independent legal
22 advice concerning the effects of consenting to the adoption;

23 (ii) A statement that the parent understands that
24 the petitioner is willing to pay for the limited representation; and

25 (iii) A statement that the parent has, after
26 considering his or her right to an independent attorney, knowingly and
27 voluntarily and without coercion or undue influence from any other person
28 elected not to be represented by an attorney for the purpose of executing the
29 consent and, if the parent elects, withdrawing the consent.

30 (B) This affidavit shall, before the petition is heard, be
31 filed with the court having jurisdiction over the adoption proceeding.

32 (e)(1) If a parent whose consent to adoption is required under this
33 subchapter does not speak English as a native language, the parent shall be
34 provided a qualified interpreter for the purpose of interpreting the consent
35 adoption into the native language of the parent before its execution by the
36 parent unless a petitioner is:

1 (A) A stepparent whose spouse is a natural or adoptive
2 parent of the child to be adopted;

3 (B) Related to the child to be adopted within the second
4 degree as defined in § 28-9-212; or

5 (C) Represented by an attorney pro bono in the adoption
6 proceeding.

7 (2) For the purposes of this section, a qualified interpreter is
8 an interpreter who appears on the current registry of court interpreters
9 maintained by the Administrative Office of the Courts under § 16-10-1101 et
10 seq.

11 (3) The interpreter services:

12 (A) Shall be paid for by the petitioner; and

13 (B) May be provided in person, by telephone, by a video-
14 conferencing application, or by comparable means.

15 (4) If required, the consent to adoption shall:

16 (A) Identify the native language of the parent;

17 (B) Provide the name and qualifications of the qualified
18 interpreter; and

19 (C) Describe the method used by the qualified interpreter
20 to interpret the consent to adoption.

21 (5) A parent to whom subdivision (e)(1) of this section applies
22 may elect not to use a court interpreter by signing under oath, in the
23 presence of a notary public, an affidavit that includes the following:

24 (A) A statement that identifies the native language of the
25 parent;

26 (B) An acknowledgment that the parent has been offered a
27 qualified interpreter to interpret the consent to adoption into the parent's
28 native language;

29 (C) An acknowledgment that the petitioner is willing to
30 pay for the qualified interpreter;

31 (D) A statement that the parent elects not to use a
32 qualified interpreter in executing the consent because:

33 (i) The parent is proficient enough in English to
34 understand the legal documents without the assistance of a qualified
35 interpreter; or

36 (ii) The parent's attorney can explain in the

1 parent's native language the consent and implications of signing a consent to
2 adoption; and

3 (E) A statement that the parent elects not to use a
4 qualified interpreter knowingly and voluntarily, and without coercion or
5 undue influence from any other person.

6 (6) The affidavit under subdivision (e)(5) of this section shall
7 be:

8 (A) In English; and

9 (B) Translated into the native language of the parent by a
10 qualified interpreter; and

11 (C) Filed, before the petition is heard, with the court
12 having jurisdiction over the adoption proceeding.

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14 SECTION 2. Arkansas Code § 9-9-211, concerning reports of expenditures
15 made by a petitioner in an adoption proceeding, is amended to add additional
16 subsections to read as follows:

17 (d) A full accounting report required under subsection (a) of this
18 section shall include:

19 (1) The amounts paid;

20 (2) An itemization of expenses listed in § 9-9-206(c); and

21 (3) The time periods during which each reimbursement or benefit
22 has been paid or will be paid.

23 (e)(1) A parent or guardian whose consent to adoption is required
24 under this subchapter and who receives reimbursement for an expense incurred
25 or a fee for services rendered incidental to prenatal, delivery, and
26 postnatal care shall file:

27 (A) A full accounting report of anything of value that has
28 been or will be received from the petitioner or a third party acting on
29 behalf of the petitioner in connection with the adoption; and

30 (B) An affidavit verifying the full accounting report.

31 (2) A full accounting report required under subdivision (e)(1)
32 of this section shall include:

33 (A) The amounts paid;

34 (B) An itemization of expenses listed in § 9-9-206(c); and

35 (C) The time periods during which each reimbursement or
36 benefit has been paid or will be paid.

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2 SECTION 3. Arkansas Code § 9-9-220, concerning the relinquishment and
3 termination of parent and child relationships in adoption proceedings, is
4 amended to add additional subsections to read as follows:

5 (h)(1) A parent who relinquishes his or her parental rights under this
6 section shall have limited, independent legal representation for the purpose
7 of:

8 (A) Executing the relinquishment; and

9 (B) Withdrawing the relinquishment if the parent elects to
10 withdraw the relinquishment as permitted under this section.

11 (2) The attorney:

12 (A) Shall not represent any other party in the adoption;
13 and

14 (B) Shall certify, by signing the writing after its
15 execution by the parent, that:

16 (i) The attorney has explained to the parent the
17 effect of relinquishing his or her parental rights; and

18 (ii) The parent appeared to relinquish his or her
19 parental rights voluntarily and of his or her own free will.

20 (3) This subsection shall not apply to an adoption if the
21 petitioner is:

22 (A) A stepparent whose spouse is a natural or adoptive
23 parent of the child to be adopted;

24 (B) Related to the child to be adopted within the second
25 degree as defined in § 28-9-212; or

26 (C) Represented by an attorney pro bono in the adoption
27 proceeding.

28 (4)(A) A parent who relinquishes his or her parental rights
29 under this section may elect not to be represented by independent attorney as
30 provided in subdivision (h)(1) of this section by signing under oath, in the
31 presence of a notary public, an affidavit that includes the following:

32 (i) A statement that the parent understands that he
33 or she has been offered limited representation by an attorney, who does not
34 also represent the petitioner, to provide the parent with independent legal
35 advice concerning the effects of relinquishing parental rights;

36 (ii) A statement that the parent understands that

1 the petitioner is willing to pay for the limited representation; and
2 (iii) A statement that the parent has, after
3 considering his or her right to an independent attorney, knowingly and
4 voluntarily and without coercion or undue influence from any other person
5 elected not to be represented by an attorney for the purpose of executing the
6 relinquishment and, if the parent elects, withdrawing the relinquishment.

7 (B) This affidavit shall, before the petition is heard, be
8 filed with the court having jurisdiction over the adoption proceeding.

9 (i)(1) If a parent who relinquishes his or her parental rights under
10 this section does not speak English as a native language, the parent shall be
11 provided a qualified interpreter for the purpose of interpreting the
12 relinquishment into the native language of the parent before its execution by
13 the parent unless a petitioner is:

14 (A) A stepparent whose spouse is a natural or adoptive
15 parent of the child to be adopted;

16 (B) Related to the child to be adopted within the second
17 degree as defined in § 28-9-212; or

18 (C) Represented by an attorney pro bono in the adoption
19 proceeding.

20 (2) For the purposes of this section, a qualified interpreter is
21 an interpreter who appears on the current registry of court interpreters
22 maintained by the Administrative Office of the Courts under § 16-10-1101 et
23 seq.

24 (3) The interpreter services:

25 (A) Shall be paid for by the petitioner; and

26 (B) May be provided in person, by telephone, by a video-
27 conferencing application, or by comparable means.

28 (4) If required, the relinquishment shall:

29 (A) Identify the native language of the parent;

30 (B) Provide the name and qualifications of the qualified
31 interpreter; and

32 (C) Describe the method used by the qualified interpreter
33 to interpret the relinquishment.

34 (5) A parent to whom subdivision (i)(1) of this section applies
35 may elect not to use a court interpreter by signing under oath, in the
36 presence of a notary public, an affidavit that includes the following:

