

HCS SCS SB 711 -- ADOPTION AND JUVENILE COURT JURISDICTION

SPONSOR: Lamping (Largent)

COMMITTEE ACTION: Voted "do pass" by the Committee on Children and Families by a vote of 12 to 0.

This substitute changes the laws regarding adoptions and the jurisdiction of the juvenile court.

The substitute changes the laws regarding adoptions. The substitute:

(1) Requires the State Registrar within the Department of Health and Senior Services to develop and provide each birth parent of an adoptee with a contact preference form and a medical history form;

(2) Requires the State Registrar, upon receipt of the completed contact preference and medical history forms, to attach the forms to the original birth certificate of the adopted person. A completed contact preference form and medical history form have the same level of confidentiality as the original birth certificate;

(3) Authorizes the Children's Division within the Department of Social Services to terminate the rights of a parent under specified conditions. Currently, only the juvenile court or the court before which a petition for adoption has been filed is authorized to do this. The juvenile court, division, or the court is also authorized to approve the consent to adoption or waiver of consent to adoption by a parent, including a child who is a ward of the court, if a court finds that the termination or consent to adoption or waiver of consent to adoption is in the best interests of the child and the parent has consented in writing to the termination of his or her parental rights or consented or waived consent to the adoption;

(4) Specifies that the race or ethnicity of the adoptive child, the child's biological parents, or the prospective adoptive parents must not be a consideration when determining the best interests of the child, the welfare of the child, the suitability and assessment of prospective adoptive parents, or the home of the prospective adoptive parents in adoptive placements. The division must comply with specified federal placement requirements for any Native American child placed in protective custody;

(5) Specifies that consent to the adoption of a child is not required of a man who:

(a) Has reason to believe he is the biological father of an unborn child and who attempted to coerce the mother to obtain an abortion;

(b) Has reason to believe he is the biological father of a newborn child but who has not provided consistent prenatal financial support to the mother and consistent payment for prenatal, natal, and postnatal medical care for the mother and baby unless actively thwarted from doing so by the mother; and

(c) Is not required under Section 453.030, RSMo;

(6) Specifies that a man whose consent to adoption is not required under Sections 453.030 or 453.040 waives his right to intervene in an action for termination of parental rights or for adoption or to file a paternity action for a child after a petition for adoption or termination of parental rights has been filed unless he can establish that he has previously developed a consistent and substantial relationship with the child, including by providing, unless actively thwarted from doing so by the mother of the child:

(a) Consistent prenatal financial support;

(b) Consistent payment of prenatal and natal medical care for the mother and baby;

(c) Consistent child support payments commensurate with his ability to pay;

(d) Consistent contact and visitation with the child; and

(e) Assistance with educational and medical care of the child;

(7) Requires a court conducting a final adoption hearing to determine whether the court has received and reviewed an investigation report required under Section 453.070, if any, and an investigation and social study required under Section 211.455, if any;

(8) Allows prospective adoptive parents and the parents of a prospective adoptee to enter into a written post adoption contract agreement to allow contact after the adoption between parents, siblings, or other relatives of the adoptee and the adoptee and the adoptive parents. Any agreement is at the discretion of the adoptive parents, must be in writing and signed by the parties to the agreement, and must be made part of the court record. The court must enforce an agreement unless to do so is not in the best interest of the adoptee;

(9) Requires, By January 1, 2013, the Missouri Supreme Court to develop a standardized form to be used in all adoption cases which includes a checklist to verify that all the documents and procedures required by law have been submitted, followed, and reviewed by the judge prior to the entry of a final order. The form and attachments must be included as part of the adoption record;

(10) Specifies that for adoptions completed after August 28, 2012, the substitute:

(a) Allows any adopted person who is at least 18 years of age, born in Missouri, and who provides proof of identification or the adopted person's descendants if the adopted person is deceased to obtain a copy of the adopted person's original birth certificate unless the birth mother or birth father has objected;

(b) Requires the court to provide each birth parent with a confidentiality preference form prior to the entry of any adoption decree;

(c) Requires, if a birth parent objects, the court to provide the form to the State Registrar to be filed with the original birth certificate of the adopted person;

(d) Specifies that no adoption decree can be entered until the birth mother and birth father, unless he is unknown or refuses to do so, have had the opportunity to communicate his and her wishes regarding the disclosure of the original birth certificate;

(e) Specifies that if a birth mother or birth father has objected to the disclosure of the original certificate, the person can request the Department of Social Services, the child-placing agency which processed the adoption, or the court personnel to make reasonable efforts to notify the birth mother and birth father of the request for its disclosure. The requestee may be charged for the actual costs of attempting the notification;

(f) Requires, if the birth mother and birth father consent to the release of the original birth certificate, the department, the child-placing agency which processed the adoption, or the court personnel to obtain a copy of a notarized form signed by the birth mother and birth father, if known, giving consent to release the original birth certificate;

(g) Specifies that a copy of the original birth certificate cannot be released if the birth mother and birth father cannot be located or if they do not consent to its release. Another request for the release can only be made until at least three

years after the original or any future request; and

(h) Specifies that if the birth mother or birth father had objected, a copy of the original birth certificate can be obtained upon the birth mother's and birth father's death; and

(11) Specifies that for adoptions completed on or prior to August 28, 2012, the substitute:

(a) Allows any adopted person who is at least 18 years of age, born in Missouri, and who provides proof of identification or the adopted person's descendants if the adopted person is deceased to obtain a copy of the adopted person's original birth certificate unless the birth mother or birth father has objected. If a birth mother or birth father has objected, the person can request the Department of Social Services, the child-placing agency which processed the adoption, or the court personnel to make reasonable efforts to notify the birth mother and birth father of the request for its disclosure. The requestee may be charged for the actual costs of attempting the notification;

(b) Requires, if the birth mother and birth father consent to the release of the original birth certificate, the department, the child-placing agency which processed the adoption, or the court personnel to obtain a copy of a notarized form signed by the birth mother and birth father, if known, giving consent to release the original birth certificate and provide it to the adopted person or his or her descendant;

(c) Specifies that a copy of the original birth certificate cannot be released if the birth mother and birth father cannot be located or if they do not consent to its release. Another request for the release can only be made until at least three years after the original or any future requests; and

(d) Specifies that a copy of the original birth certificate can be obtained by the adopted person or his or her descendant upon the birth mother's and birth father's death.

The substitute requires a child be convicted in a court of general jurisdiction in order for the jurisdiction of the juvenile court over that child to forever terminate for an act that would be a violation of a state law or municipal ordinance. Currently, if a child is under 17 years old and has been convicted in a court of general jurisdiction, the court is allowed to invoke dual jurisdiction of both the criminal and juvenile codes. The substitute raises the age to 17 and six months of age and requires the court to consider dual jurisdiction.

If the Division of Youth Services within the Department of Social Services agrees to accept a youth and the court does not impose a juvenile disposition, the court must make findings on the record as to why the division was not appropriate for an offender prior to imposing an adult criminal sentence.

FISCAL NOTE: Estimated Net Income of General Revenue Fund of \$11,182 in FY 2013, \$13,756 in FY 2014, and \$14,177 in FY 2015. Estimated Net Income on Other State Funds of \$34,650 in FY 2013, \$42,625 in FY 2014, and \$43,901 in FY 2015.

PROPONENTS: Supporters say that the bill is an attempt to expedite the finalization of an adoption which currently takes between 18 months to two years. A court sometimes delays the finalization in an attempt to find a racial match between a child and the adoptive parents.

Testifying for the bill was Senator Lamping.

OPPONENTS: There was no opposition voiced to the committee.