

HOUSE AMENDMENT NO.____
TO
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Offered By

AMEND House Amendment No.____ to Senate Bill No. 819, Page 19, Section 453.015, Lines 9 to 25, by removing said section and lines and inserting in lieu thereof the following:

"453.015. As used in sections 453.010 to 453.400, the following terms mean:

(1) "Minor" or "child", any person who has not attained the age of eighteen years or any person in the custody of the children's division who has not attained the age of twenty-one;

(2) "Parent", a birth parent or parents of a child, including the putative father of the child, as well as the husband of a birth mother at the time the child was conceived, or a parent or parents of a child by adoption. The putative father shall have no legal relationship unless he has acknowledged the child as his own by affirmatively asserting his paternity;

(3) "Post adoption contact agreement", a voluntary written agreement executed by one or both of a child's birth parents and each adoptive parent describing future contact between the parties to the agreement and the child, provided that such agreement shall be approved by the court under subsection 4 of section 453.080;

(4) "Putative father", the alleged or presumed father of a child including a person who has filed a notice of intent to claim paternity with the putative father registry established in section 192.016 and a person who has filed a voluntary acknowledgment of paternity pursuant to section 193.087;

~~[(4)]~~ (5) "Stepparent", the spouse of a biological or adoptive parent. The term does not include the state if the child is a ward of the state. The term does not include a person whose parental rights have been terminated."; and

Further amend said amendment, Pages 19, Line 26, through Page 21, Line 1, Section 453.030, by removing said section and lines and inserting in lieu thereof the following:

"453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same. In a case involving a child under fourteen years of age, the guardian ad litem shall ascertain the child's wishes and feelings about his or her adoption by conducting an interview or interviews with the child, if appropriate based on the child's

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1 age and maturity level, which shall be considered by the court as a factor in determining if the
2 adoption is in the child's best interests.

3 3. With the exceptions specifically enumerated in section 453.040, when the person sought
4 to be adopted is under the age of eighteen years, the written consent of the following persons shall
5 be required and filed in and made a part of the files and record of the proceeding:

6 (1) The mother of the child; ~~and~~

7 (2) ~~[Only the]~~ Any man who:

8 (a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection 1 of
9 section 210.822; or

10 (b) Has filed an action to establish his paternity in a court of competent jurisdiction no later
11 than fifteen days after the birth of the child and has served a copy of the petition on the mother in
12 accordance with section 506.100; or

13 (c) Filed with the putative father registry pursuant to section 192.016 a notice of intent to
14 claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the
15 child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no
16 later than fifteen days after the birth of the child; ~~[or]~~ and

17 (3) The child's current adoptive parents or other legally recognized mother and father.

18 Upon request by the petitioner and within one business day of such request, the clerk of the local
19 court shall verify whether such written consents have been filed with the court.

20 4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section
21 may be executed before or after the birth of the child or before or after the commencement of the
22 adoption proceedings, and shall be executed in front of a judge or acknowledged before a notary
23 public. If consent is executed in front of a judge, it shall be the duty of the judge to advise the
24 consenting birth parent of the consequences of the consent. ~~[In lieu of such acknowledgment]~~ If
25 consent is executed before a notary public, the signature of the person giving such written consent
26 shall be witnessed by the signatures of at least two adult persons whose signatures and addresses
27 shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive
28 parents or any attorney representing a party to the adoption proceeding other than the attorney
29 representing the party signing the consent. The notary public ~~[or witnesses]~~ shall verify the identity
30 of the party signing the consent. Notwithstanding any other provision of law to the contrary, a
31 properly executed written consent under this subsection shall be considered irrevocable.

32 5. The written consent required in subdivision (1) of subsection 3 of this section by the birth
33 ~~[parent]~~ mother shall not be executed anytime before the child is forty-eight hours old. Such written
34 consent shall be executed in front of a judge or acknowledged before a notary public. If consent is
35 executed in front of a judge, it shall be the duty of the judge to advise the consenting party of the
36 consequences of the consent. ~~[In lieu of such acknowledgment]~~ If consent is executed before a
37 notary public, the signature of the person giving such written consent shall be witnessed by the
38 signatures of at least two adult persons who are present at the execution whose signatures and
39 addresses shall be plainly written thereon and who determine and certify that the consent is
40 knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents
41 or any attorney representing a party to the adoption proceeding other than the attorney representing
42 the party signing the consent. The notary public ~~[or witnesses]~~ shall verify the identity of the party
43 signing the consent.

44 6. A consent is final when executed, unless the consenting party, prior to a final decree of
45 adoption, alleges and proves by clear and convincing evidence that the consent was not freely and
46 voluntarily given. The burden of proving the consent was not freely and voluntarily given shall rest
47 with the consenting party. Consents in all cases shall have been executed not more than six months
48 prior to the date the petition for adoption is filed.

7. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 8 of this section, such written consent shall be deemed valid.

8. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and may provide the names of all such persons; and

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child.

9. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

10. Where the person sought to be adopted is eighteen years of age or older, his or her written consent alone to his or her adoption shall be sufficient.

11. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

12. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 11 of this section to be paid by the prospective adoptive parents or the child-placing agency.

13. The court shall receive and acknowledge a written consent to adoption properly executed by a birth parent under this section if such consent is in the best interests of the child."; and

Further amend said amendment, Page 21, Line 2 through Page 22, Line 8, Section 453.080, by removing said section and lines and inserting in lieu thereof the following:

"453.080. 1. The court shall conduct a hearing to determine whether the adoption shall be finalized. Out-of-state adoptive petitioners may appear by their attorney or by video or telephone conference rather than in person. During such hearing, the court shall ascertain whether:

(1) The person sought to be adopted, if a child, has been in the lawful and actual custody of the petitioner for a period of at least six months prior to entry of the adoption decree; except that the six-month period may be waived if the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to chapter 211 and the person desiring to adopt the child is the child's current foster parent. Lawful and actual custody shall include a transfer of custody pursuant to the laws of this state, another state, a territory of the United States, or another country;

(2) The court has received and reviewed a postplacement assessment on the monthly contacts with the adoptive family pursuant to section 453.077, except for good cause shown in the case of a child adopted from a foreign country;

(3) The court has received and reviewed an updated financial affidavit;

(4) The court has received the recommendations of the guardian ad litem and has received and reviewed the recommendations of the person placing the child, the person making the assessment and the person making the postplacement assessment;

(5) ~~[There is compliance with the uniform child custody jurisdiction act, sections 452.440 to 452.550;~~

~~———(6)]~~ There is compliance with the Indian Child Welfare Act, if applicable;

~~[(7)]~~ (6) There is compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620; and

~~[(8)]~~ (7) It is fit and proper that such adoption should be made.

2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of custody has occurred pursuant to section 453.110, the court may authorize the filing for finalization in another state if the adoptive parents are domiciled in that state.

3. If the court determines the adoption should be finalized, a decree shall be issued setting forth the facts and ordering that from the date of the decree the adoptee shall be for all legal intents and purposes the child of the petitioner or petitioners. The court may decree that the name of the person sought to be adopted be changed, according to the prayer of the petition.

4. Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Prospective adoptive parents and birth parents may enter into a written post adoption contact agreement to allow contact, communication, and the exchange of photographs after the adoption between the adoptive parents and the birth parents. The court shall not order any party to enter into a post adoption contact agreement. The agreement shall be filed with and approved by the court at or before the finalization of the adoption. The court shall approve an agreement only if the agreement is in the best interests of the child. The court may enforce or modify an agreement made under this subsection unless such enforcement or modification is not in the best interests of the child. The agreement shall include:

(1) An acknowledgment by the birth parents that the adoption is irrevocable, even if the adoptive parents do not abide by the post adoption contact agreement;

(2) An acknowledgment by the adoptive parents that the agreement grants the birth parents the right to seek to enforce the provisions of the post adoption contact agreement. Remedies for a breach of the agreement shall include specific performance of the terms of the agreement, provided that nothing in the agreement shall preclude a party seeking to enforce the agreement from utilizing child welfare mediation before, or in addition to, the commencement of a civil action for specific enforcement;

(3) An acknowledgment that the post adoption contact agreement shall be filed with and approved by the court in order to be enforceable; and

(4) An acknowledgment that the birth parent's consent to the adoption was not conditioned on the post adoption contact agreement and that acceptance of the agreement is fully voluntary.

Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents or in accordance with a post adoption contact agreement executed under this subsection. The court shall not have jurisdiction to deny ~~[continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny]~~ an exchange of identifying information between an adoptive parent and a birth parent.

5. Before the completion of an adoption, the court shall make available to the birth parent or parents a contact preference form developed by the state registrar pursuant to section 193.128 and provided to the court by the department of health and senior services. If a birth parent chooses to complete the form, the clerk of the court shall send the form with the certificate of decree of

1 adoption to the state registrar. Such form shall accompany the original birth certificate of the
2 adopted person and may be updated by a birth parent at any time upon the request of the birth
3 parent."; and
4

5 Further amend said bill by amending the title, enacting clause, and intersectional references
6 accordingly.
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8 THIS AMENDS 5563S01.37H.