

State of Arkansas
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As Engrossed: H2/24/21 H3/8/21

A Bill

HOUSE BILL 1379

By: Representative Penzo

By: Senator B. Ballinger

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING CONSENT TO ADOPTION AND RELINQUISHMENT OF PARENTAL RIGHTS DURING THE ADOPTION PROCESS; AND CONCERNING THE REPORT OF EXPENDITURES RELATED TO AN ADOPTION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 9-9-208, concerning the execution of consent to adoption, is amended to add additional subsections to read as follows:

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

(A) Executing the consent to adoption; and

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

(2) The attorney:

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



and

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

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

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

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

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

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

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

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

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

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

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

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

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

parent unless a petitioner is:

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

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

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

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

(3) The interpreter services:

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

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

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

(A) Identify the native language of the parent;

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

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

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

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

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

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

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

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

(ii) The parent's attorney can explain in the parent's native language the consent and implications of signing a consent to adoption; and

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

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

(A) In English; and

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

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

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

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

(1) The amounts paid;

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

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

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

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

(B) An affidavit verifying the full accounting report.

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

(A) The amounts paid;

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

(C) The time periods during which each reimbursement or

benefit has been paid or will be paid.

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

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

(A) Executing the relinquishment; and

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

(2) The attorney:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The interpreter services:

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

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

(4) If required, the relinquishment shall:

(A) Identify the native language of the parent;

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

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

(5) A parent to whom subdivision (i)(1) of this section applies may elect not to use a court interpreter by signing under oath, in the

presence of a notary public, an affidavit that includes the following:

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

(B) An acknowledgment that the parent has been offered a qualified interpreter to interpret the relinquishment into the parent's native language;

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

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

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

(ii) The parent's attorney can explain in the parent's native language the relinquishment and implications of signing a relinquishment of parental rights; and

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

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

(A) In English; and

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

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

/s/Penzo

APPROVED: 4/6/21