

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: H3/17/15

# A Bill

HOUSE BILL 1670

5 By: Representative Lowery  
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## For An Act To Be Entitled

8 AN ACT TO PROTECT THE PARENTAL RIGHTS OF A PUTATIVE  
9 FATHER; TO VACATE AN ADOPTION WITHIN SIX (6) MONTHS  
10 FROM THE FINAL ADOPTION ORDER UPON EVIDENCE OF FRAUD  
11 OR A LACK OF KNOWLEDGE OF THE CHILD'S EXISTENCE; AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

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16 TO PROTECT THE PARENTAL RIGHTS OF A  
17 PUTATIVE FATHER; AND TO VACATE AN  
18 ADOPTION WITHIN SIX (6) MONTHS FROM THE  
19 FINAL ADOPTION ORDER UPON EVIDENCE OF  
20 FRAUD OR A LACK OF KNOWLEDGE OF THE  
21 CHILD'S EXISTENCE.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 *SECTION 1. Arkansas Code Title 9, Chapter 9, is amended to add an*  
27 *additional subchapter to read as follows:*

28 *Subchapter 8 – Putative Father Parental Rights*  
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30 *9-9-801. Putative father – Vacate order – Notice of rights.*

31 *(a)(1) Upon signing an acknowledgment of paternity or registering with*  
32 *the Division of Vital Records of the Department of Health to have an alleged*  
33 *father's name placed on the Putative Father Registry regarding a specific*  
34 *minor, a putative father may:*

35 *(A) Petition for adjudication of paternity; and*

36 *(B) Petition the court to set aside the order of adoption*



1 within six (6) months from the date of the final adoption order.

2 (2) The court may vacate an order of adoption if the putative  
3 father:

4 (A) Did not have knowledge of the child's existence before  
5 the adoption or was prevented from registering with the Putative Father  
6 Registry due to fraud, deception, or other misconduct by the natural mother  
7 or adoptive parents; and

8 (B) Has established paternity.

9 (b)(1) When a putative father has provided evidence that he meets the  
10 requirements under subsection (a) of this section, a presumption will arise  
11 that it is in the best interest of the child that the father have parental  
12 rights to the child and custody of the child.

13 (2)(A) The presumption in subdivision (b)(1) of this section may  
14 be rebutted by a preponderance of the evidence that it is not in the best  
15 interest of the child to be removed from the custody of the adoptive parent  
16 or parents.

17 (B) When considering whether or not it is in the best  
18 interest of the child to be removed from the custody of the adoptive parent  
19 or parents, the court may consider, without limitation, the following:

20 (i) The age, developmental stage, needs of the  
21 child, and the likely impact the change of custody will have on the child's  
22 physical, educational, and emotional development, taking into consideration  
23 any special needs of the child;

24 (ii) The preference of the child, taking into  
25 consideration the age and maturity of the child;

26 (iii) The degree to which a change in custody will  
27 result in uprooting the child;

28 (iv) Whether the father is able to provide emotional  
29 and financial support to the child;

30 (v) A history of substance abuse, harassment, or  
31 violence or child abuse by the father, including a consideration of the  
32 severity of the conduct and the failure or success of any attempts at  
33 rehabilitation;

34 (vi) The reasons why the father failed to protect  
35 his parental rights;

36 (vii) The length of time the child has resided with

1 the adoptive parent or parents;

2 (viii) Whether the adoptive parent or parents were  
3 aware of the identity the father; and

4 (ix) Any other factor that in the opinion of the  
5 court is material to the general issue or otherwise provided by law.

6 (c)(1) If a court finds that the putative father did not expressly or  
7 impliedly consent to the adoption, the agency, attorney, or pro se party who  
8 filed the petition for adoption shall give the adoptive parent or parents a  
9 statement of legal risk indicating the legal status of the putative father's  
10 potential parental rights under this section.

11 (2) The adoptive parent or parents shall sign the statement of  
12 legal risk, and the agency, attorney, or pro se party shall file the legal  
13 statement of risk with the court.

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15 /s/Lowery  
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