

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/17/15
A Bill

HOUSE BILL 1670

By: Representative Lowery

For An Act To Be Entitled

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

Subtitle

TO PROTECT THE PARENTAL RIGHTS OF A PUTATIVE FATHER; AND TO VACATE AN ADOPTION WITHIN SIX (6) MONTHS FROM THE FINAL ADOPTION ORDER UPON EVIDENCE OF FRAUD OR A LACK OF KNOWLEDGE OF THE CHILD'S EXISTENCE.

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

SECTION 1. Arkansas Code Title 9, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 8 – Putative Father Parental Rights

9-9-801. Putative father – Vacate order – Notice of rights.

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

(A) Petition for adjudication of paternity; and

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



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

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

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

(B) Has established paternity.

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

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

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

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

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

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

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

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

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

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

the adoptive parent or parents;

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

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

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

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

/s/Lowery