

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

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: S3/28/23
A Bill

SENATE BILL 408

By: Senators C. Penzo, C. Tucker

By: Representative Burkes

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS LAWS CONCERNING ADOPTION; TO AMEND CERTAIN ADOPTION LAWS TO DIFFERENTIATE BETWEEN MINOR AND ADULT ADOPTIONS; TO AMEND THE REQUIREMENTS CONCERNING WITHDRAWAL OF CONSENT TO ADOPTION; TO AMEND THE REQUIREMENTS CONCERNING THE DESCRIPTION AND ESTIMATE OF VALUE OF PROPERTY OWNED BY AN INDIVIDUAL TO BE ADOPTED; TO AMEND THE REQUIREMENTS FOR A HOME STUDY IN AN ADOPTION CASE; TO AMEND THE REQUIREMENTS FOR A HEALTH, GENETIC, AND SOCIAL HISTORY IN AN ADOPTION CASE; TO AMEND THE LAW CONCERNING THE TERMINATION OF RIGHTS OF NONPARENTAL RELATIVES; TO AMEND THE REQUIREMENTS FOR CHECKING THE PUTATIVE FATHER REGISTRY IN AN ADOPTION CASE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS LAWS CONCERNING ADOPTION; AND TO AMEND CERTAIN ADOPTION LAWS TO DIFFERENTIATE BETWEEN MINOR AND ADULT ADOPTIONS.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

(a)(1) The General Assembly finds that Act 889 of 1995 amended § 9-9-215(a)(1) as follows:



(A) A decree of adoption has the effect, "[e]xcept with respect to a spouse of the petitioner and relatives of the spouse, . . . to terminate all legal relationships between the adopted individual and his or her biological relatives".

(2) § 9-9-215(a)(1) permits a court to grant visitation rights to parents of the deceased biological parent of the child in certain circumstances, the legal relationship between the parties remains terminated.

(3)(A) Section 4 of Act 889 of 1995 repealed all laws and parts of laws in conflict with the act.

(B)(i) § 9-9-223 grants a court the discretion to terminate rights of nonparental relatives in an adoption, except as provided in Title 9, Chapter 9, Subchapter 2.

(ii) Under Act 889 of 1995, Title 9, Chapter 9, Subchapter 2 terminates all legal relationships with parents and nonparental relatives by operation of law.

(b) Therefore, based on this conflict, § 9-9-223 should be repealed, and is repealed in Section 8 of this act.

SECTION 2. Arkansas Code § 9-9-209(c)(2), concerning withdrawal of consent to adoption, is amended to read as follows:

(2) The period for filing a withdrawal of consent under subsection (b) of this section does not apply to:

(A) An agency as defined in ~~§9-9-202~~ § 9-9-202; ~~or~~

(B) A minor:

(i) Who is over twelve (12) years of age; and

(ii) Whose consent to adoption is required;

(C) An adult to be adopted; or

(D) The spouse of an adult to be adopted.

SECTION 3. Arkansas Code § 9-9-210(a)(7), concerning the description and estimate of value of any property of an individual to be adopted that must be stated in the petition for adoption, is amended to read as follows:

(7) A description and estimate of value of any property of the ~~individual~~ minor to be adopted;

SECTION 4. Arkansas Code § 9-9-212(g)(1)(A), concerning when a

detailed, written health history and genetic and social history of a child to be adopted must be provided to the prospective adoptive parents, is amended to read as follows:

(g)(1)(A) Except as provided under subdivision (g)(2) of this section, before placement for adoption, the licensed adoption agency or, when an agency is not involved, the person, entity, or organization handling the adoption shall compile and provide to the prospective adoptive parents a detailed, written health history and genetic and social history of the child that ~~may exclude~~ exclude information that would identify birth parents or members of a birth parent's family.

SECTION 5. Arkansas Code § 9-9-213, concerning residency requirements for a petition for adoption of a minor to be granted, is amended to add an additional subsection to read as follows:

(c) This section does not apply to a minor who is:

(1) Less than six (6) months of age at the time the petition for adoption is filed; and

(2) Not in the custody of the Department of Human Services.

SECTION 6. Arkansas Code § 9-9-223, concerning the termination of rights of nonparental relatives, is repealed.

~~9-9-223. Termination of rights of nonparental relatives.~~

~~Except as provided in this subchapter with regard to parental rights, any rights to a child which a nonparental relative may derive through a parent or by court order may, if the best interests of the child so require, be terminated in connection with a proceeding for adoption or for termination of parental rights.~~

SECTION 7. Arkansas Code § 9-9-224, concerning the procedure that applies in an adoption case involving a child born to a mother unmarried at the time of the child's birth, is amended to add an additional subsection to read as follows:

(d) This section does not apply to an adoption when:

(1) An order terminating the rights of the minor's parents has been entered by a court of competent jurisdiction in this or any other state before the filing of the petition for adoption, regardless of whether the

parents consented to termination of parental rights; or

(2) The minor was adopted in a separate adoption proceeding before the filing of the current petition for adoption.

SECTION 8. Arkansas Code § 9-9-505 is amended to read as follows:

9-9-505. Compilation of ~~nonidentifying~~ health history and genetic and social history.

(a) Prior to placement for adoption, the licensed adoption agency or, when an agency is not involved, the person, entity, or organization handling the adoption shall compile and provide to the prospective adoptive parents a detailed, written health history and genetic and social history of the child that ~~excludes~~ may exclude information that would identify birth parents or members of a birth parent's family and that shall be set forth in a document that is separate from any other document ~~containing such identifying information~~.

(b) Records containing the ~~nonidentifying~~ health history and genetic and social history information and that are set forth on a document that is separate from any other document ~~containing identifying data~~:

(1)(A) Shall be retained by the agency or, when no agency is involved, by the person, entity, or organization handling the adoption, for ninety-nine (99) years.

(B)(i) If the agency or person, entity, or organization who handled the adoption ceases to function, that agency or intermediary shall transfer records containing the ~~nonidentifying~~ health history and genetic and social history information on the adoptee to the Department of Human Services.

(ii) However, a licensed agency ceasing operation may transfer the records to another licensed agency within this state, but only if the agency transferring the records gives notice of the transfer to the department; and

(2) Shall be available upon request throughout the time specified in subdivision (b)(1) of this section, together with any additional ~~nonidentifying~~ information that may have been added on health history or on genetic and social history, but which ~~excludes~~ may exclude information identifying any birth parent or member of a birth parent's family or the adoptee or any adoptive parent of the adoptee, to the following persons only:

(A) *The adoptive parents of the child or, in the event of death of the adoptive parents, the child's guardian;*

(B) *The adoptee;*

(C) *In the event of the death of the adoptee, the adoptee's children, the adoptee's widow or widower, or the guardian of any child of the adoptee;*

(D) *The birth parent of the adoptee; and*

(E) *Any child welfare agency having custody of the adoptee.*

(c) *The actual and reasonable cost of providing ~~nonidentifying~~ the health history and genetic and social history shall be paid by the person requesting the information.*

(d) Any information provided to an eligible person under this subchapter shall be nonidentifying unless permitted under § 9-9-506.

/s/C. Penzo