

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 597
90TH GENERAL ASSEMBLY

Reported from the Committee on Public Health and Welfare, February 17, 2000, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 597, adopted March 28, 2000.

Taken up for Perfection March 28, 2000. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

2916S.10P

AN ACT

To repeal section 453.030, RSMo Supp. 1999, relating to adoption, and to enact in lieu thereof three new sections relating to the same subject.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 453.030, RSMo Supp. 1999, is repealed and three new sections enacted in lieu thereof, to be known as sections 191.975, 210.950 and 453.030, to read as follows:

191.975. 1. This section shall be known and may be cited as the "Adoption Awareness Law".

2. The division of maternal, child and family health in the department of health, in conjunction with the department of social services and with the office of women's health in the department of health, shall be responsible for:

(1) Collecting resource materials in order to educate communities about foster care and adoption; and

(2) Establishing and promoting education materials which may include a video, brochures or public relations campaigns about adoption and foster care for public use and for use as a part of the department of health's family planning and education

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

programs. The material shall include, but not be limited to, information about:

- (a) Adoption and foster care;**
 - (b) Adoption and foster care procedures;**
 - (c) Methods of payment;**
 - (d) Methods of controlling the adoption of a child, including the choice of adoptive parents;**
 - (e) Protection for and rights, or lack thereof, of the birth parents prior to and following the adoption;**
 - (f) Location of adoption and foster care agencies; and**
 - (g) Discussion of various state health programs for women and children, including medical assistance programs, as well as income assistance programs;**
- (3) Such materials shall be made available through department of health clinics and family planning programs, and privately-funded adoption agencies, and abortion facilities, as defined in section 188.015, RSMo, private physicians for distribution to their patients who request such material, and any other person or entity that requests such material. Such materials may be made available to the public through the department of health's Internet website;**

3. The duties prescribed in this section shall be subject to appropriations by the general assembly.

4. The division shall promulgate rules and regulations for the implementation of this section in accordance with chapter 536, RSMo.

210.950. 1. A parent of a newborn infant or of a child twelve months of age or less may relinquish custody of the infant or child to a hospital. The hospital may accept custody of the infant or child from the parent and the hospital shall immediately notify the division of family services which will then apply to the court for legal custody of the child.

2. If a parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 1 of this section, then by operation of law and, pending court proceedings:

- (1) All of the parent's rights with respect to the infant or child are terminated;**
- (2) The infant or child is made a ward of the state; and**
- (3) The infant or child is immediately available for adoption.**

3. A hospital that accepts custody of an infant or child pursuant to subsection 1 of this section shall ask the parent of the infant or child for pertinent medical information relating to the parent and the infant or child. That information includes, but is not limited to information concerning the use of controlled substances and the infant or child's birth date. If a parent provides the medical information requested by

the hospital, the parent is immune from criminal liability for any act of commission or omission in connection with relinquishing custody of the infant or child to the hospital. If a parent does not provide the medical information, the division of family services is authorized to attempt to identify the parent or parents and obtain medical information and a birth date of the child.

4. A hospital that accepts custody of an infant or child pursuant to subsection 1 of this section is immune from civil, criminal, and administrative liability for any act of commission or omission in connection with the acceptance of that custody or the provision of care for the infant or child while it is in their custody.

5. If a hospital accepts custody of an infant or child pursuant to subsection 1 of this section, the state shall reimburse the hospital for the hospital's actual expenses in accepting and caring for the infant or child. The reimbursement shall be made from moneys appropriated to the department of social services for that purpose.

6. (1) If one parent of an infant or child relinquishes custody of the infant or child to a hospital as provided in subsection 1 of this section, the other parent may file an action for custody of the child. The nonrelinquishing parent must file such an action within thirty days after the hospital accepts custody of the child from the relinquishing parent. In such an action, the nonrelinquishing parent must prove he or she is the parent of the infant or child.

(2) If a parent fails to file an action within the thirty-day period specified in subsection 6 of this section, the parent is forever barred from filing an action for custody of the infant or child and, by operation of law and without any court proceeding, all of the parent's rights with respect to the infant or child are terminated.

(3) When a nonrelinquishing parent inquires at a hospital concerning an infant or child whose custody was relinquished to the hospital as provided in subsection 1 of this section, the hospital shall refer the parent to the division of family services.

7. The division of family services shall adopt rules necessary to implement the provisions of this section. The rules shall include provisions for the reimbursement of hospitals' expenses pursuant to subsection 5 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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.

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

(1) The mother of the child; and

(2) Any man who:

(a) Is presumed to be the father pursuant to the subdivisions (1), (2), (3) or (5) of subsection 1 of section 210.822, RSMo; or

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child. **Such person shall be advised of the effect of his signature and the legal consequences thereof following the signature of the consent;** or

(3) The child's current adoptive parents or other legally recognized mother and father. Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be executed before or after the commencement of the adoption proceedings, and shall be acknowledged before a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The

two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court within three business days of such consents being presented to the court. **The child may be placed in the pre-approved adoptive home immediately upon the signing of consents, and thereafter the court may proceed with approval of the consents.** Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge.

8. 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, RSMo. 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 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; and

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

10. 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.

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

12. 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.

13. 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 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

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