

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 348
91ST GENERAL ASSEMBLY

Reported from the Committee on Children, Families and Health, April 12, 2001, with recommendation that the House Committee Substitute for Senate Bill No. 348 Do Pass.

TED WEDEL, Chief Clerk

1465L.02C

AN ACT

To repeal sections 453.010, 453.070, 453.080 and 475.083, RSMo 2000, relating to the adoption of foster children, and to enact in lieu thereof four new sections relating to the same subject.

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

Section A. Sections 453.010, 453.070, 453.080 and 475.083, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 453.010, 453.070, 453.080 and 475.083, to read as follows:

453.010. 1. Any person desiring to adopt another person as his or her child shall petition the juvenile division of the circuit court of the county in which:

- (1) The person seeking to adopt resides;
- (2) The child sought to be adopted was born;
- (3) The child is located at the time of the filing of the petition; or
- (4) Either birth person resides.

2. A petition to adopt shall not be dismissed or denied on the grounds that the petitioner is not domiciled or does not reside in any of the venues set forth in subdivision (2), (3) or (4) of subsection 1 of this section.

3. If the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to the provision of chapter 211, RSMo, any person desiring to adopt such person as his or her child shall petition the juvenile division of the circuit court which has jurisdiction over the child for permission to adopt such person as his or her child. Upon receipt of a motion from the petitioner and consent of the receiving court, the juvenile division of the circuit court which has jurisdiction over the child may transfer jurisdiction to the juvenile division of a circuit court within any of the alternative venues set forth in subsection 1 of this section.

4. If the petitioner has a spouse living and competent to join in the petition, such spouse may join therein, and in such case the adoption shall be by them jointly. If such a spouse does not join the petition the court in its discretion may, after a hearing, order such joinder, and if such order is not complied with may dismiss the petition.

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

5. Upon receipt of a properly filed petition, a court, as defined in this section, shall hear such petition in a timely fashion. A court or any child-placing agency shall not deny or delay the placement of a child for adoption when an approved family is available, regardless of the approved family's residence or domicile. **The court shall expedite the placement of a child for adoption pursuant to subsection 3 of this section.**

453.070. 1. Except as provided in subsection 5 of this section, no decree for the adoption of a child under eighteen years of age shall be entered for the petitioner or petitioners in such adoption as ordered by the juvenile court having jurisdiction, until a full investigation, which includes an assessment of the adoptive parents, an appropriate postplacement assessment and a summary of written reports as provided for in section 453.026, and any other pertinent information relevant to whether the child is suitable for adoption by the petitioner and whether the petitioner is suitable as a parent for the child, has been made. The report shall also include a statement to the effect that the child has been considered as a potential subsidy recipient.

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the state department of social services, a juvenile court officer, a licensed child-placement agency, a social worker licensed pursuant to chapter 337, RSMo, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content of the assessment shall include but not be limited to, a report on the condition of the petitioner's home and information on the petitioner's education, financial, marital, medical and psychological status and criminal background check. If an assessment is conducted after August 28, 1997, but prior to the promulgation of rules and regulations by the department concerning the contents of such assessment, any discrepancy between the contents of the actual assessment and the contents of the assessment required by department rule shall not be used as the sole basis for invalidating an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

4. The assessment of petitioner or petitioners shall be submitted to the petitioner and to the court prior to the scheduled hearing of the adoptive petition.

5. In cases where the adoption or custody involves a child under eighteen years of age that is the natural child of one of the petitioners and where all of the parents required by this chapter to give consent to the adoption or transfer of custody have given such consent, the juvenile court may waive the investigation and report, except the criminal background check, and enter the decree for the adoption or order the transfer of custody without such investigation and report.

6. In the case of an investigation and report made by the division of family services by order of the court, the court may order the payment of a reasonable fee by the petitioner to cover the costs of the investigation and report.

7. Any adult person or persons over the age of eighteen, who, as foster parent or parents, have cared for a foster child continuously for a period of [twelve] **nine** months or more and bonding has occurred as evidenced by the positive emotional and physical interaction between the foster parent and child, may apply to such authorized agency for the placement of such child with them for the purpose of adoption if the child is eligible for adoption. The agency and court shall give preference and first

consideration for adoptive placements to foster parents. However, the final determination of the propriety of the adoption of such foster child shall be within the sole discretion of the court.

453.080. 1. The court shall conduct a hearing to determine whether the adoption shall be finalized. During such hearing, the court shall ascertain whether:

(1) The person sought to be adopted, if a child, has been in the lawful and actual custody of the petitioner for a period of at least six months prior to entry of the adoption decree; **except that the six month period may be waived if the person sought to be adopted is a child who is under the prior and continuing jurisdiction of a court pursuant to chapter 211, RSMo, and the person desiring to adopt the child is the child's current foster parent.** "Lawful and actual custody" shall include a transfer of custody pursuant to the laws of this state, another state, a territory of the United States, or another country;

(2) The court has received and reviewed a postplacement assessment on the monthly contacts with the adoptive family pursuant to section 453.077, except for good cause shown in the case of a child adopted from a foreign country;

(3) The court has received and reviewed an updated financial affidavit;

(4) The court has received the recommendations of the guardian ad litem and has received and reviewed the recommendations of the person placing the child, the person making the assessment and the person making the postplacement assessment;

(5) There is compliance with the uniform child custody jurisdiction act, sections 452.440 to 452.550, RSMo;

(6) There is compliance with the Indian Child Welfare Act, if applicable;

(7) There is compliance with the Interstate Compact on the Placement of Children pursuant to section 210.620, RSMo; and

(8) It is fit and proper that such adoption should be made.

2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of custody has occurred pursuant to section 453.110, the court may authorize the filing for finalization in another state if the adoptive parents are domiciled in that state.

3. If the court determines the adoption should be finalized, a decree shall be issued setting forth the facts and ordering that from the date of the decree the adoptee shall be for all legal intents and purposes the child of the petitioner or petitioners. The court may decree that the name of the person sought to be adopted be changed, according to the prayer of the petition.

4. Before the completion of an adoption, the exchange of information among the parties shall be at the discretion of the parties. Upon completion of an adoption, further contact among the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction to deny continuing contact between the adopted person and the birth parent, or an adoptive parent and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of identifying information between an adoptive parent and a birth parent.

475.083. 1. The authority of a guardian or conservator terminates:

(1) When a minor ward becomes eighteen years of age;

(2) Upon an adjudication that an incapacitated or disabled person has been restored to his capacity or ability;

(3) Upon revocation of the letters of the guardian or conservator;

(4) Upon the acceptance by the court of the resignation of the guardian or conservator;

(5) Upon the death of the ward or protectee except that if there is no person other than the estate of the ward or protectee liable for the funeral and burial expenses of the ward or protectee the guardian or conservator may, with the approval of the court, contract for the funeral and burial of the deceased ward or protectee;

(6) Upon the expiration of an order appointing a guardian or conservator ad litem unless the court orders extension of the appointment;

(7) Upon an order of court terminating the guardianship or conservatorship.

2. A guardianship or conservatorship may be terminated by court order after such notice as the court may require:

(1) If the conservatorship estate is exhausted;

(2) If the [guardianship or] conservatorship is no longer necessary for any other reason;

(3) If the court finds that a parent is fit, suitable and able to assume the duties of guardianship and it is in the best interest of the minor that the guardianship be terminated

3. Notwithstanding the termination of the authority of a conservator, he shall continue to have such authority as may be necessary to wind up his administration.

4. At any time the guardian, conservator or any person on behalf of the ward or protectee may, individually or jointly with the ward or protectee, or the ward or protectee individually may petition the court to restore the ward or protectee, or to decrease the powers of the guardian or conservator, except that if the court determines that the petition is frivolous, the court may summarily dismiss the petition without hearing.

5. Upon the filing of a joint petition by the guardian or conservator and the ward or protectee, the court, if it finds restoration or modification to be in the best interests of the ward or protectee, may summarily order restoration or modification of the powers of the guardian or conservator without the necessity of notice and hearing.

6. Upon the filing of a petition without the joinder of the guardian or conservator, the court shall cause the petition to be set for hearing with notice to the guardian or conservator. If the ward or protectee is not represented by an attorney, the court shall appoint an attorney to represent the ward or protectee in such proceeding. The burden of proof by a preponderance of the evidence shall be upon the petitioner. Such a petition may not be filed more than once every one hundred eighty days.

7. At any time the guardian or conservator may petition the court to increase his powers. Proceedings on the petition shall be in accordance with the provisions of section 475.075.