

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 21
93RD GENERAL ASSEMBLY
2005

0411L.03T

AN ACT

To repeal sections 191.975, 192.016, 453.020, and 453.121, RSMo, and to enact in lieu thereof four new sections relating to putative father registry.

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

Section A. Sections 191.975, 192.016, 453.020, and 453.121, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 191.975, 192.016, 453.020, and 453.121, to read as follows:

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

2. To raise public awareness and to educate the public, the department of social services, with the assistance of the department of health and senior services, shall be responsible for:

(1) Collecting and distributing resource materials to educate the public about foster care and adoption;

(2) Developing and distributing educational materials, including but not limited to videos, brochures and other media as part of a comprehensive public relations campaign about the positive option of adoption and foster care. The materials shall include, but not be limited to, information about:

- (a) The benefits of adoption and foster care;
- (b) Adoption and foster care procedures;
- (c) Means of financing the cost of adoption and foster care, including but not limited to adoption subsidies, foster care payments and special needs adoption tax credits;
- (d) Options for birth parents in choosing adoptive parents;
- (e) Protection for and rights of birth parents and adoptive parents prior to and

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

following the adoption;

(f) Location of adoption and foster care agencies;

(g) Information regarding various state health and social service programs for pregnant women and children, including but not limited to medical assistance programs and temporary assistance for needy families (TANF); and

(h) Referrals to appropriate counseling services, including but not be limited to counseling services for parents who are considering retaining custody of their children, placing their children for adoption, or becoming foster or adoptive parents; but excluding any referrals for abortion or to abortion facilities;

(3) Making such educational materials available through state and local public health clinics, public hospitals, family planning clinics, abortion facilities as defined in section 188.015, RSMo, maternity homes as defined in section 135.600, RSMo, child-placing agencies licensed pursuant to sections 210.481 to 210.536, RSMo, attorneys whose practice involves private adoptions, in vitro fertilization clinics and private physicians for distribution to their patients who request such educational materials. Such materials shall also be available to the public through the department of social services' Internet web site; [and]

(4) Establishing a toll-free telephone number for information on adoption and foster care, **and to answer questions and assist persons inquiring about becoming adoptive or foster parents.**

3. In addition, the department may establish and implement an ongoing advertising campaign for the recruitment of adoptive and foster care families, with a special emphasis on the recruitment of qualified adoptive and foster care families for special needs children. Such advertising campaign may utilize, but shall not be limited to, the following media: television, radio, outdoor advertising, newspaper, magazines and other print media, web sites, and the Internet. The department may contract with professional advertising agencies or other professional entities to conduct such advertising campaign on behalf of the department.

[3.] 4. The provisions of this section shall be subject to appropriations.

[4.] 5. The department of social services shall promulgate rules for the implementation of this section in accordance with chapter 536, RSMo.

192.016. 1. The department of health and senior services shall establish a putative father registry which shall record the names and addresses of:

(1) Any person adjudicated by a court of this state to be the father of a child born out of wedlock;

(2) Any person who has filed with the registry before or after the birth of a child out of wedlock, a notice of intent to claim paternity of the child;

(3) Any person adjudicated by a court of another state or territory of the United

States to be the father of an out-of-wedlock child, where a certified copy of the court order has been filed with the registry by such person or any other person.

2. A person filing a notice of intent to claim paternity of a child or an acknowledgment of paternity shall file the acknowledgment affidavit form developed by the state registrar which shall include the minimum requirements prescribed by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. Section 652(a)(7).

3. A person filing a notice of intent to claim paternity of a child shall notify the registry of any change of address.

4. A person who has filed a notice of intent to claim paternity may at any time revoke a notice of intent to claim paternity previously filed therewith and, upon receipt of such notification by the registry, the revoked notice of intent to claim paternity shall be deemed a nullity nunc pro tunc.

5. An unrevoked notice of intent to claim paternity of a child may be introduced in evidence by any party, other than the person who filed such notice, in any proceeding in which such fact may be relevant.

6. Lack of knowledge of the pregnancy does not excuse failure to timely file pursuant to paragraph (b) or (c) of subdivision (2) of subsection 3 of section 453.030, RSMo.

7. Failure to timely file pursuant to paragraph (b) or (c) of subsection 3 of section 453.030, RSMo, shall waive a man's right to withhold consent to an adoption proceeding unless:

(1) The person was led to believe through the mother's misrepresentation or fraud that:

- (a) The mother was not pregnant when in fact she was; or
- (b) The pregnancy was terminated when in fact the baby was born; or
- (c) After the birth, the child died when in fact the child is alive; and

(2) The person upon the discovery of the misrepresentation or fraud satisfied the requirements of paragraph (b) or (c) of subsection 3 of section 453.030, RSMo, within fifteen days of that discovery.

8. The department shall, upon request and within two business days of such request, provide the names and addresses of persons listed with the registry to any court or authorized agency, or entity or person named in section 453.014, RSMo, and such information shall not be divulged to any other person, except upon order of a court for good cause shown.

9. The department of health and senior services shall:

(1) Prepare forms for registration of paternity and an application for search of the putative father registry;

(2) Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgment of paternity,

the consequences of acknowledgment and failure to acknowledge paternity pursuant to section 453.010, RSMo, a copy of a statement informing the public about the putative father registry, including to whom and under what circumstances it applies, the time limits and responsibilities for filing, protection of paternal rights and associated responsibilities, and other provisions of this section, and a detachable form meeting the requirements of subsection 2 of this section addressed to the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the department of health and senior services. The department shall also provide such pamphlets or publications to the department of social services, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

(3) Provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the putative father registry and its services.

10. Pursuant to subdivision (2) of subsection 9 of this section, a statement prepared by the department of health and senior services shall be contained in any pamphlet or publication informing the public about the putative father registry.

11. There is hereby created in the state treasury the "Putative Father Registry Fund", which shall consist of moneys collected under section 453.020, RSMo. Upon appropriation, moneys in the fund shall be used solely for the administration of the putative father registry. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fund shall not revert to the credit of general revenue at the end of the biennium, but shall be used upon appropriations by the general assembly for the purpose of carrying out the provisions of this chapter.

453.020. 1. The petition for adoption shall state:

- (1) The name, sex and place of birth of the person sought to be adopted;
- (2) The name of his parents, if known to the petitioner;
- (3) If the person sought to be adopted is a minor, the fact that petitioner has the ability to properly care for, maintain and educate such person; and
- (4) If it is desired to change the name of such person, the new name.

2. The petition for adoption shall include payment of a fifty dollar filing fee which shall be used to fund the putative father registry established pursuant to section 192.016, RSMo.

3. All fees provided for in this section shall be deposited in the putative father registry fund. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue at the end of the biennium, but shall be used upon appropriation by the general assembly for the purpose of carrying out the

provisions of this chapter.

453.121. 1. As used in this section, unless the context clearly indicates otherwise, the following terms mean:

(1) "Adopted adult", any adopted person who is [twenty-one] **eighteen** years of age or over;

(2) "Adopted child", any adopted person who is less than [twenty-one] **eighteen** years of age;

(3) "Adult sibling", any brother or sister of the whole or half blood who is [twenty-one] **eighteen** years of age or over;

(4) "Identifying information", information which includes the name, date of birth, place of birth and last known address of the biological parent;

(5) "Nonidentifying information", information concerning the physical description, nationality, religious background and medical history of the biological parent or sibling.

2. All papers, records, and information pertaining to an adoption whether part of any permanent record or file may be disclosed only in accordance with this section.

3. Nonidentifying information, if known, concerning undisclosed biological parents or siblings shall be furnished by the child-placing agency or the juvenile court to the adoptive parents, legal guardians or adopted adult upon written request therefor.

4. An adopted adult may make a written request to the circuit court having original jurisdiction of such adoption to secure and disclose information identifying the adopted adult's biological parents. **If the biological parents have consented to the release of identifying information under subsection 11 of this section, the court shall disclose such identifying information to the adopted adult. If the biological parents have not consented to the release of identifying information under subsection 11 of this section,** the court shall, within ten days of receipt of the request, notify in writing the adoptive parents of such petitioner and the child-placing agency or juvenile court personnel having access to the information requested of the request by the adopted adult.

5. Within three months after receiving notice of the request of the adopted adult, the child-placing agency or juvenile court personnel shall notify the adoptive parents, if such adoptive parents are living and shall not make any attempt to notify the biological parents without prior written consent of such adoptive parents for adoptions instituted or completed prior to August 13, 1986, but may proceed if there is proof that the adoptive parents are deceased or incapacitated, as such term is defined in chapter 475, RSMo. If the adoptive parents are living but are unwilling to give such written consent, the child-placing agency or the juvenile court personnel shall make a written report to the court stating that they were unable to notify the biological parent. If the adoptive parents are deceased or give written consent, the child-placing agency or the juvenile court personnel shall make reasonable efforts to notify the biological parents of the request of the adopted adult. The

child-placing agency or juvenile court personnel may charge actual costs to the adopted adult for the cost of making such search. All communications under this subsection are confidential. For purposes of this subsection, "notify" means a personal and confidential contact with the biological parent of the adopted adult, which initial contact shall not be made by mail and shall be made by an employee of the child-placing agency which processed the adoption, juvenile court personnel or some other licensed child-placing agency designated by the child-placing agency or juvenile court. Nothing in this section shall be construed to permit the disclosure of communications privileged pursuant to section 491.060, RSMo. At the end of three months, the child-placing agency or juvenile court personnel shall file a report with the court stating that each biological parent that was located was given the following information:

- (1) The nature of the identifying information to which the agency has access;
- (2) The nature of any nonidentifying information requested;
- (3) The date of the request of the adopted adult;
- (4) The right of the biological parent to file an affidavit with the court stating that the identifying information should be disclosed;
- (5) The effect of a failure of the biological parent to file an affidavit stating that the identifying information should be disclosed.

6. If the child-placing agency or juvenile court personnel reports to the court that it has been unable to notify the biological parent within three months, the identifying information shall not be disclosed to the adopted adult. Additional requests for the same or substantially the same information may not be made to the court within one year from the end of the three-month period during which the attempted notification was made, unless good cause is shown and leave of court is granted.

7. If, within three months, the child-placing agency or juvenile court personnel reports to the court that it has notified the biological parent pursuant to subsection 5 of this section, the court shall receive the identifying information from the child-placing agency. If an affidavit duly executed by a biological parent authorizing the release of information is filed with the court, the court shall disclose the identifying information as to that biological parent to the adopted adult, provided that the other biological parent either:

- (1) Is unknown;
- (2) Is known but cannot be found and notified pursuant to section 5 of this act;
- (3) Is deceased; or
- (4) Has filed with the court an affidavit authorizing release of identifying information.

If the biological parent fails or refuses to file an affidavit with the court authorizing the release of identifying information, then the identifying information shall not be released to the adopted adult. No additional request for the same or substantially the same information may be made within three years of the time the biological parent fails or refuses to file an

affidavit authorizing the release of identifying information.

8. If the biological parent is deceased but previously had filed an affidavit with the court stating that identifying information shall be disclosed, the information shall be forwarded to and released by the court to the adopted adult. If the biological parent is deceased and, at any time prior to his death, the biological parent did not file an affidavit with the court stating that the identifying information shall be disclosed, the adopted adult may petition the court for an order releasing the identifying information. The court shall grant the petition upon a finding that disclosure of the information is necessary for health-related purposes.

9. Any adopted adult whose adoption was finalized in this state or whose biological parents had their parental rights terminated in this state may request the court to secure and disclose identifying information concerning an adult sibling and upon a finding by the court that such information is necessary for urgent health-related purposes in the same manner as provided in this section. Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the court or in an agency, shall be released only upon consent of that adult sibling.

10. The central office of the **children's** division [of family services of] **within** the department of social services shall maintain a registry by which biological parents, **adult siblings**, and adoptive adults may indicate their desire to be contacted by each other. The division may request such identification for the registry as a party may possess to assure positive identifications. [If] **At the time of registry, a biological parent or adult sibling may consent in writing to the release of identifying information to an adopted adult. If such a consent has not been executed and** the division believes that a match has occurred on the registry between [both] biological parents **or adult siblings** and an adopted adult, an employee of the division shall make the confidential contact provided in subsection 5 of this section with the biological parents **or adult siblings** and with the adopted adult. If the division believes that a match has occurred on the registry between one biological parent **or adult sibling** and an adopted adult, an employee of the division shall make the confidential contact provided by subsection 5 of this section with the biological parent **or adult sibling**. The division shall then attempt to make such confidential contact with the other biological parent, and shall proceed thereafter to make such confidential contact with the adopted adult only if the division determines that the other biological parent meets one of the conditions specified in subsection 7 of this section. The biological parent, **adult sibling**, or adopted adult may refuse to go forward with any further contact between the parties when contacted by the division.

11. The provisions of this section, except as provided in subsection 5 of this section governing the release of identifying and nonidentifying adoptive information apply to adoptions completed before and after August 13, 1986.

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