

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/HCS/House Bill No. 1231, Page 20, Section 105.711, Line 11

2 of said page, by inserting after all of said line the following:

3 "211.442. As used in sections 211.442 to 211.487, unless  
4 the context clearly indicates otherwise, the following terms  
5 mean:

6 (1) "Child", an individual under eighteen years of age;

7 (2) "Minor", any person who has not attained the age of  
8 eighteen years;

9 (3) "Parent"[, a biological parent or parents of a child,  
10 as well as, the husband of a natural mother at the time the child  
11 was conceived, or a parent or parents of a child by adoption,  
12 including both the mother and the putative father of a child.  
13 The putative father of a child shall have no legal relationship  
14 unless he, prior to the entry of a decree under sections 211.442  
15 to 211.487, has acknowledged the child as his own by  
16 affirmatively asserting his paternity]:

17 (a) A biological parent or parents who have a parent and  
18 child relationship as defined under subdivision (4) of section  
19 210.817 and section 210.819;

20 (b) The presumed father of a child under subdivisions (1),  
21 (2) and (3) of section 210.822;

1           (c) The acknowledged father under section 210.823;

2           (d) The adjudicated parent under sections 210.817 to  
3 210.853;

4           (e) A parent or parents of a child by adoption; or

5           (f) The putative father of a child who has, before the  
6 birth or within fifteen days of the birth of the child:

7           a. Established a relationship with the child under section  
8 453.045; and

9           b. Filed a parentage action under sections 210.817 to  
10 210.853 and properly served notice upon the mother.

11           211.444. 1. The juvenile court may, upon petition of the  
12 juvenile officer, the court appointed guardian ad litem, or a  
13 child-placing agency licensed under sections 210.481 to 210.536  
14 in conjunction with a placement with such agency under subsection  
15 6 of section 453.010, or the court before which a petition for  
16 adoption has been filed pursuant to the provisions of chapter  
17 453, terminate the rights of a parent or approve the consent to  
18 adoption or waiver of consent to adoption, by a parent or of a  
19 named father to a child, including a child who is a ward of the  
20 court, if the court finds that such termination or consent to  
21 adoption or waiver of consent to adoption is in the best  
22 interests of the child and the parent has consented in writing to  
23 the termination of his or her parental rights or consented or  
24 waived consent to the adoption.

25           2. The written consent required by subsection 1 of this  
26 section may be executed before or after the institution of the  
27 proceedings and shall be acknowledged before a notary public. In  
28 lieu of such acknowledgment, the signature of the person giving  
29 the written consent shall be witnessed by at least two adult

1 persons who are present at the execution whose signatures and  
2 addresses shall be plainly written thereon and who determine and  
3 certify that the consent is knowingly and freely given. The two  
4 adult witnesses shall not be the prospective parents. The notary  
5 public or witnesses shall verify the identity of the party  
6 signing the consent.

7 3. The written consent required by subsection 1 of this  
8 section shall be valid and effective only after the child is at  
9 least forty-eight hours old and if it complies with the other  
10 requirements of section 453.030."; and

11 Further amend said bill, page 27, section 452.556, line 4 of  
12 said page, by inserting after all of said line the following:

13 "453.010. 1. Any person desiring to adopt another person  
14 as his or her child shall petition the juvenile division of the  
15 Missouri circuit court of the county in which:

16 (1) The person seeking to adopt resides or within one  
17 hundred and fifty miles of such county;

18 (2) The child sought to be adopted was born;

19 (3) The child is located at the time of the filing of the  
20 petition; **[or]**

21 (4) Either birth person resides or within one hundred and  
22 fifty miles of such county; or

23 (5) The placing agency or intermediary has offices.

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

28 3. If the person sought to be adopted is a child who is  
29 under the prior and continuing jurisdiction of a court pursuant

1 to the provision of chapter 211, any person desiring to adopt  
2 such person as his or her child shall petition the juvenile  
3 division of the circuit court which has jurisdiction over the  
4 child for permission to adopt such person as his or her child.  
5 Upon receipt of a motion from the petitioner and consent of the  
6 receiving court, the juvenile division of the circuit court which  
7 has jurisdiction over the child may transfer jurisdiction to the  
8 juvenile division of a circuit court within any of the  
9 alternative venues set forth in subsection 1 of this section.

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

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

23 6. A licensed child-placing agency may file a petition for  
24 transfer of custody if a birth parent consents in writing by  
25 power of attorney for placement of a minor child, a consent to  
26 adoption, or any other document which evidences a desire to place  
27 the child with the licensed child-placing agency for the purposes  
28 of transfer of custody of the child to the licensed child-placing  
29 agency. The written consent obtained from the birth parent shall

1 strictly comply with section 453.030.

2 453.040. The consent to the adoption of a child is not  
3 required of:

4 (1) A parent whose rights with reference to the child have  
5 been terminated pursuant to law, including section 211.444 or  
6 section 211.447 or other similar laws in other states;

7 (2) A parent of a child who has legally consented to a  
8 future adoption of the child;

9 (3) A parent whose identity is unknown and cannot be  
10 ascertained at the time of the filing of the petition;

11 (4) A man who has not been established to be the father and  
12 who is not presumed by law to be the father, and who, after the  
13 conception of the child, executes a verified statement denying  
14 paternity and disclaiming any interest in the child and  
15 acknowledging that this statement is irrevocable when executed  
16 and follows the consent as set forth in section 453.030;

17 (5) A parent or other person who has not executed a consent  
18 and who, after proper service of process, fails to file an answer  
19 or make an appearance in a proceeding for adoption or for  
20 termination of parental rights at the time such cause is heard;

21 (6) A parent who has a mental condition which is shown by  
22 competent evidence either to be permanent or such that there is  
23 no reasonable likelihood that the condition can be reversed and  
24 which renders the parent unable to knowingly provide the child  
25 the necessary care, custody and control;

26 (7) A parent who has for a period of at least six months,  
27 for a child one year of age or older, or at least sixty days, for  
28 a child under one year of age, immediately prior to the filing of  
29 the petition for adoption, willfully abandoned the child or, for

1 a period of at least six months immediately prior to the filing  
2 of the petition for adoption, willfully, substantially and  
3 continuously neglected to provide him with necessary care and  
4 protection;

5 (8) A man who is on notice that he may be the biological  
6 father of a child under section 453.061 but who has not developed  
7 a consistent and substantial relationship with his child under  
8 section 453.045 and whose consent is not required under section  
9 453.030 or not required or is waived under subsection 7 of  
10 section 192.016;

11 (9) A parent whose rights to the child may be terminated  
12 for any of the grounds set forth in section 211.447 and whose  
13 rights have been terminated after hearing and proof of such  
14 grounds as required by sections 211.442 to 211.487. Such  
15 petition for termination may be filed as a count in an adoption  
16 petition.

17 453.045. 1. A man whose consent to adoption is waived or  
18 not required under sections 192.016, 453.030, or 453.040  
19 nonetheless preserves his rights to intervene in an action for  
20 termination of parental rights or in an action for adoption or to  
21 file a paternity action for a child after a petition for either  
22 adoption or termination of parental rights has been filed with  
23 the court, where he can prove that he has previously developed a  
24 consistent and substantial relationship with the child  
25 commensurate with his means and abilities, including but not  
26 limited to, by providing his share of consistent prenatal  
27 financial support and consistent prenatal and natal medical care  
28 for the mother and baby, consistent child support payments  
29 commensurate with his ability to pay, consistent contact and

1 visitation with the child, and assistance with educational and  
2 medical care of the child, unless he can prove that he was  
3 actively thwarted from doing so by the mother, or other actual or  
4 legal custodian.

5 2. Failure to develop such relationship pursuant to  
6 subsection 1 of this section waives such man's rights to  
7 intervene in an action for termination of parental rights or in  
8 an action for adoption or to file a paternity action for a child  
9 after a petition for either adoption or termination of parental  
10 rights has been filed with the court.

11 453.080. 1. The court shall conduct a hearing to determine  
12 whether the adoption shall be finalized. Out of state adoptive  
13 petitioners may appear by their attorney and by video conference  
14 rather than in person, as long as the child also appears by video  
15 conference or in person. During such hearing, the court shall  
16 ascertain whether:

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

27 (2) The court has received and reviewed a postplacement  
28 assessment on the monthly contacts with the adoptive family  
29 pursuant to section 453.077, except for good cause shown in the

1 case of a child adopted from a foreign country;

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

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

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

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

13 [(7)] (6) There is compliance with the Interstate Compact  
14 on the Placement of Children pursuant to section 210.620; and

15 [(8)] (7) It is fit and proper that such adoption should be  
16 made.

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

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

29 4. Before the completion of an adoption, the exchange of



1 information among the parties shall be at the discretion of the  
2 parties. Prospective adoptive parents and parents of a  
3 prospective adoptee may enter into a post adoption contact  
4 agreement to allow communication, exchange of photographs or  
5 contact after the adoption between the parents, siblings, or  
6 other relatives of the adoptee and the adoptee and adoptive  
7 parents. The court shall not order any party to enter into a  
8 post adoption contact agreement. Upon completion of an adoption,  
9 further contact among the parties shall be at the discretion of  
10 the adoptive parents, and such adoptive parents may exercise  
11 their discretion to enter into a post adoption contact agreement  
12 with the former parents of an adoptee to allow contact between a  
13 former parent or sibling of the adoptee and the adoptee or  
14 adoptive parents. The agreement shall be in writing and be  
15 approved by the court at or before the finalization of the  
16 adoption. The agreement shall include:

17 (1) An acknowledgment by the former parents that the  
18 adoption is irrevocable, even if the adoptive parents do not  
19 abide by the post adoption contact agreement; and

20 (2) An acknowledgment by the adoptive parents that the  
21 agreement grants the former parents the right to seek to enforce  
22 the post adoption privileges set forth in the agreement.

23  
24 The court shall not approve an agreement unless the agreement is  
25 approved by the adoptive parents with whom the agreement is being  
26 made. The court shall enforce a written agreement made in  
27 accordance with this subsection unless enforcement is not within  
28 the best interests of the adoptee. The court shall not have  
29 jurisdiction to deny continuing contact between the adopted

1 person and the birth parent, or an adoptive parent and a birth  
2 parent. Additionally, the court shall not have jurisdiction to  
3 deny an exchange of identifying information between an adoptive  
4 parent and a birth parent.

5 5. For purposes of this section, "post adoption contact  
6 agreement", shall mean a written agreement approved by the court  
7 pursuant to the provisions listed under subsection 4 of this  
8 section.

9 453.110. 1. No person, agency, organization or institution  
10 shall surrender custody of a minor child, or transfer the custody  
11 of such a child to another, and no person, agency, organization  
12 or institution shall take possession or charge of a minor child  
13 so transferred, without first having filed a petition before the  
14 circuit court sitting as a juvenile court of the county where the  
15 child may be, praying that such surrender or transfer may be  
16 made, and having obtained such an order from such court approving  
17 or ordering transfer of custody. Where filing such petition is  
18 impractical prior to lawful placement for care pursuant to  
19 subsection 5 of this section, such petition shall be filed within  
20 twenty days of execution of proper power of attorney or when the  
21 Interstate Compact for Placement of Children approval under  
22 section 210.620 is obtained, whichever is later.

23 2. If any filing is made late or such surrender or transfer  
24 is made without first obtaining such an order or compliance with  
25 subsection 5 of this section, such court shall, on petition of  
26 any public official or interested person, agency, organization or  
27 institution, order an investigation and report as described in  
28 section 453.070 to be completed by the division of family  
29 services and shall make such order as to the custody of such

1 child in the best interest of such child.

2 3. Any person violating the terms of this section shall be  
3 guilty of a class D felony.

4 4. The investigation required by subsection 2 of this  
5 section shall be initiated by the children's division [of family  
6 services] within forty-eight hours of the filing of the court  
7 order requesting the investigation and report and shall be  
8 completed within thirty days. The court shall order the person  
9 having custody in violation of the provisions of this section to  
10 pay the costs of the investigation and report.

11 5. This section shall not be construed to prohibit any  
12 parent, agency, organization or institution from placing a child  
13 with another individual for care under proper power of attorney  
14 if the right to supervise the care of the child and to resume  
15 custody thereof is retained, or from placing a child with a  
16 licensed foster home within the state under proper power of  
17 attorney through a child-placing agency licensed by this state as  
18 part of a preadoption placement.

19 6. After the filing of a petition for the transfer of  
20 custody for the purpose of adoption, the court may enter an order  
21 of transfer of custody if the court finds all of the following:

22 (1) A family assessment has been made as required in  
23 section 453.070 and has been reviewed by the court;

24 (2) A recommendation has been made by the guardian ad  
25 litem;

26 (3) A petition for transfer of custody for adoption has  
27 been properly filed or an order terminating parental rights has  
28 been properly filed;

29 (4) The financial affidavit has been filed as required

1 under section 453.075;

2 (5) The written report regarding the child who is the  
3 subject of the petition containing the information has been  
4 submitted as required by section 453.026;

5 (6) Compliance with the Indian Child Welfare Act, if  
6 applicable; [and]

7 (7) Compliance with the Interstate Compact on the Placement  
8 of Children pursuant to section 210.620; and

9 (8) The parties have notified the court of any persons not  
10 a party to the adoption who have physical custody or claims to  
11 have rights of legal custody, physical custody, or visitation  
12 rights with respect to minor child; of any other legal  
13 proceedings concerning the minor child; and have affirmed a  
14 continuing duty to inform the court of any proceeding in this or  
15 any other state that could affect the current proceeding.

16 7. A hearing on the transfer of custody for the purpose of  
17 adoption is not required if:

18 (1) The conditions set forth in subsection 6 of this  
19 section are met;

20 (2) The parties agree and the court grants leave; and

21 (3) Parental rights have been terminated pursuant to  
22 section 211.444 or 211.447."; and

23 Further amend the title and enacting clause accordingly.