

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend Senate _____ Bill No. 850, Page 4, Section 210.152, Line 102,

2 by inserting after all of said line the following:

3 "453.015. As used in sections 453.010 to 453.400, the
4 following terms mean:

5 (1) "Minor" or "child", any person who has not attained the
6 age of eighteen years or any person in the custody of the
7 children's division who has not attained the age of twenty-one;

8 (2) "Parent", a birth parent or parents of a child,
9 including the putative father of the child, as well as the
10 husband of a birth mother at the time the child was conceived, or
11 a parent or parents of a child by adoption. The putative father
12 shall have no legal relationship unless he has acknowledged the
13 child as his own by affirmatively asserting his paternity;

14 (3) "Post adoption contact agreement", a voluntary written
15 agreement executed by one or both of a child's birth parents and
16 each adoptive parent describing future contact between the
17 parties to the agreement and the child; provided, that such
18 agreement shall be approved by the court under subsection 4 of
19 section 453.080;

20 (4) "Putative father", the alleged or presumed father of a
21 child including a person who has filed a notice of intent to

1 claim paternity with the putative father registry established in
2 section 192.016 and a person who has filed a voluntary
3 acknowledgment of paternity pursuant to section 193.087;

4 [(4)] (5) "Stepparent", the spouse of a biological or
5 adoptive parent. The term does not include the state if the
6 child is a ward of the state. The term does not include a person
7 whose parental rights have been terminated.

8 453.030. 1. In all cases the approval of the court of the
9 adoption shall be required and such approval shall be given or
10 withheld as the welfare of the person sought to be adopted may,
11 in the opinion of the court, demand.

12 2. The written consent of the person to be adopted shall be
13 required in all cases where the person sought to be adopted is
14 fourteen years of age or older, except where the court finds that
15 such child has not sufficient mental capacity to give the same.
16 In a case involving a child under fourteen years of age, the
17 guardian ad litem shall ascertain the child's wishes and feelings
18 about his or her adoption by conducting an interview or
19 interviews with the child, if appropriate based on the child's
20 age and maturity level, which shall be considered by the court as
21 a factor in determining if the adoption is in the child's best
22 interests.

23 3. With the exceptions specifically enumerated in section
24 453.040, when the person sought to be adopted is under the age of
25 eighteen years, the written consent of the following persons
26 shall be required and filed in and made a part of the files and
27 record of the proceeding:

28 (1) The mother of the child; [and]

29 (2) [Only the] Any man who:

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

4 (b) Has filed an action to establish his paternity in a
5 court of competent jurisdiction no later than fifteen days after
6 the birth of the child and has served a copy of the petition on
7 the mother in accordance with section 506.100; or

8 (c) Filed with the putative father registry pursuant to
9 section 192.016 a notice of intent to claim paternity or an
10 acknowledgment of paternity either prior to or within fifteen
11 days after the child's birth, and has filed an action to
12 establish his paternity in a court of competent jurisdiction no
13 later than fifteen days after the birth of the child; **[or]** and

14 (3) The child's current adoptive parents or other legally
15 recognized mother and father.

16
17 Upon request by the petitioner and within one business day of
18 such request, the clerk of the local court shall verify whether
19 such written consents have been filed with the court.

20 4. The written consent required in subdivisions (2) and (3)
21 of subsection 3 of this section may be executed before or after
22 the birth of the child or before or after the commencement of the
23 adoption proceedings, and shall be executed in front of a judge
24 or acknowledged before a notary public. If consent is executed
25 in front of a judge, it shall be the duty of the judge to advise
26 the consenting birth parent of the consequences of the consent.
27 In lieu of such acknowledgment, the signature of the person
28 giving such written consent shall be witnessed by the signatures
29 of at least two adult persons whose signatures and addresses

1 shall be plainly written thereon. The two adult witnesses shall
2 not be the prospective adoptive parents or any attorney
3 representing a party to the adoption proceeding other than the
4 attorney representing the party signing the consent. The notary
5 public or witnesses shall verify the identity of the party
6 signing the consent. Notwithstanding any other provision of law
7 to the contrary, a properly executed written consent under this
8 subsection shall be considered irrevocable.

9 5. The written consent required in subdivision (1) of
10 subsection 3 of this section by the birth [parent] mother shall
11 not be executed anytime before the child is forty-eight hours
12 old. Such written consent shall be executed in front of a judge
13 or acknowledged before a notary public. If consent is executed
14 in front of a judge, it shall be the duty of the judge to advise
15 the consenting party of the consequences of the consent. In lieu
16 of [such] acknowledgment before a notary public, the signature of
17 the person giving such written consent shall be witnessed by the
18 signatures of at least two adult persons who are present at the
19 execution whose signatures and addresses shall be plainly written
20 thereon and who determine and certify that the consent is
21 knowingly and freely given. The two adult witnesses shall not be
22 the prospective adoptive parents or any attorney representing a
23 party to the adoption proceeding other than the attorney
24 representing the party signing the consent. The notary public or
25 witnesses shall verify the identity of the party signing the
26 consent.

27 6. A consent is final when executed, unless the consenting
28 party, prior to a final decree of adoption, alleges and proves by
29 clear and convincing evidence that the consent was not freely and

1 voluntarily given. The burden of proving the consent was not
2 freely and voluntarily given shall rest with the consenting
3 party. Consents in all cases shall have been executed not more
4 than six months prior to the date the petition for adoption is
5 filed.

6 7. A consent form shall be developed through rules and
7 regulations promulgated by the department of social services. No
8 rule or portion of a rule promulgated under the authority of this
9 section shall become effective unless it has been promulgated
10 pursuant to the provisions of chapter 536. If a written consent
11 is obtained after August 28, 1997, but prior to the development
12 of a consent form by the department and the written consent
13 complies with the provisions of subsection 8 of this section,
14 such written consent shall be deemed valid.

15 8. However, the consent form must specify that:

16 (1) The birth parent understands the importance of
17 identifying all possible fathers of the child and may provide the
18 names of all such persons; and

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

22 9. The written consent to adoption required by subsection 3
23 and executed through procedures set forth in subsection 5 of this
24 section shall be valid and effective even though the parent
25 consenting was under eighteen years of age, if such parent was
26 represented by a guardian ad litem, at the time of the execution
27 thereof.

28 10. Where the person sought to be adopted is eighteen years
29 of age or older, his or her written consent alone to his or her

1 adoption shall be sufficient.

2 11. A birth parent, including a birth parent less than
3 eighteen years of age, shall have the right to legal
4 representation and payment of any reasonable legal fees incurred
5 throughout the adoption process. In addition, the court may
6 appoint an attorney to represent a birth parent if:

7 (1) A birth parent requests representation;

8 (2) The court finds that hiring an attorney to represent
9 such birth parent would cause a financial hardship for the birth
10 parent; and

11 (3) The birth parent is not already represented by counsel.

12 12. Except in cases where the court determines that the
13 adoptive parents are unable to pay reasonable attorney fees and
14 appoints pro bono counsel for the birth parents, the court shall
15 order the costs of the attorney fees incurred pursuant to
16 subsection 11 of this section to be paid by the prospective
17 adoptive parents or the child-placing agency.

18 13. The court shall receive and acknowledge a written
19 consent to adoption properly executed by a birth parent under
20 this section when such consent is in the best interests of the
21 child.

22 453.080. 1. The court shall conduct a hearing to determine
23 whether the adoption shall be finalized. Out of state adoptive
24 petitioners may appear by their attorney or by video or telephone
25 conference rather than in person. During such hearing, the court
26 shall ascertain whether:

27 (1) The person sought to be adopted, if a child, has been
28 in the lawful and actual custody of the petitioner for a period
29 of at least six months prior to entry of the adoption decree;

1 except that the six-month period may be waived if the person
2 sought to be adopted is a child who is under the prior and
3 continuing jurisdiction of a court pursuant to chapter 211 and
4 the person desiring to adopt the child is the child's current
5 foster parent. Lawful and actual custody shall include a
6 transfer of custody pursuant to the laws of this state, another
7 state, a territory of the United States, or another country;

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

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

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

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

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

23 [(7)] (6) There is compliance with the Interstate Compact
24 on the Placement of Children pursuant to section 210.620; and

25 [(8)] (7) It is fit and proper that such adoption should be
26 made.

27 2. If a petition for adoption has been filed pursuant to
28 section 453.010 and a transfer of custody has occurred pursuant
29 to section 453.110, the court may authorize the filing for

1 finalization in another state if the adoptive parents are
2 domiciled in that state.

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

10 4. Before the completion of an adoption, the exchange of
11 information among the parties shall be at the discretion of the
12 parties. Prospective adoptive parents and birth parents may
13 enter into a written post adoptive contact agreement to allow
14 contact, communication, and the exchange of photographs after the
15 adoption between the adoptive parents and the birth parents. The
16 court shall not order any party to enter into a post adoption
17 contact agreement. The agreement shall be filed with and approved
18 by the court at or before the finalization of the adoption. The
19 court shall approve an agreement only if the agreement is in the
20 best interests of the child. The court may enforce or modify an
21 agreement made under this subsection unless such enforcement or
22 modification is not in the best interests of the child. The
23 agreement shall include:

24 (1) An acknowledgment by the birth parents that the
25 adoption is irrevocable, even if the adoptive parents do not
26 abide by the post adoption contact agreement;

27 (2) An acknowledgment by the adoptive parents that the
28 agreement grants the birth parents the right to seek to enforce
29 the provisions of the post adoption contact agreement. Remedies

1 for a breach of the agreement shall include specific performance
2 of the terms of the agreement; provided, that nothing in the
3 agreement shall preclude a party seeking to enforce the agreement
4 from utilizing child welfare mediation before, or in addition to,
5 the commencement of a civil action for specific enforcement;

6 (3) An acknowledgment that the post adoption contact
7 agreement shall be filed with and approved by the court in order
8 to be enforceable; and

9 (4) An acknowledgment that the birth parent's consent to
10 the adoption was not conditioned on the post adoption contact
11 agreement and that acceptance of the agreement is fully
12 voluntary.

13
14 Upon completion of an adoption, further contact among the parties
15 shall be at the discretion of the adoptive parents or in
16 accordance with a post adoption contact agreement executed under
17 this subsection. The court shall not have jurisdiction to deny
18 [continuing contact between the adopted person and the birth
19 parent, or an adoptive parent and a birth parent. Additionally,
20 the court shall not have jurisdiction to deny] an exchange of
21 identifying information between an adoptive parent and a birth
22 parent.

23 5. Before the completion of an adoption, the court shall
24 make available to the birth parent or parents a contact
25 preference form developed by the state registrar pursuant to
26 section 193.128 and provided to the court by the department of
27 health and senior services. If a birth parent chooses to
28 complete the form, the clerk of the court shall send the form
29 with the certificate of decree of adoption to the state

1 registrar. Such form shall accompany the original birth
2 certificate of the adopted person and may be updated by a birth
3 parent at any time upon the request of the birth parent."; and
4 Further amend the title and enacting clause accordingly.