

FIRST REGULAR SESSION

# SENATE BILL NO. 327

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

1595S.011

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 211.447, 453.014, 453.030, 453.040, and 453.070, RSMo, and to enact in lieu thereof five new sections relating to the parent-child relationship.

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

Section A. Sections 211.447, 453.014, 453.030, 453.040, 2 and 453.070, RSMo, are repealed and five new sections enacted 3 in lieu thereof, to be known as sections 211.447, 453.014, 4 453.030, 453.040, and 453.070, to read as follows:

211.447. 1. Any information that could justify the 2 filing of a petition to terminate parental rights may be 3 referred to the juvenile officer by any person. The 4 juvenile officer shall make a preliminary inquiry and if it 5 appears that the information could justify the filing of a 6 petition, the juvenile officer may take further action, 7 including filing a petition. If it does not appear to the 8 juvenile officer that a petition should be filed, such 9 officer shall so notify the informant in writing within 10 thirty days of the referral. Such notification shall 11 include the reasons that the petition will not be filed.

12 2. Except as provided for in subsection 4 of this 13 section, a petition to terminate the parental rights of the 14 child's parent or parents shall be filed by the juvenile 15 officer or the division, or if such a petition has been 16 filed by another party, the juvenile officer or the division 17 shall seek to be joined as a party to the petition, when:

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

18           (1) Information available to the juvenile officer or  
19 the division establishes that the child has been in foster  
20 care for at least fifteen of the most recent twenty-two  
21 months; or

22           (2) A court of competent jurisdiction has determined  
23 the child to be an abandoned infant. For purposes of this  
24 subdivision, an "infant" means any child [one year] **three**  
25 **years** of age or under at the time of filing of the  
26 petition. The court may find that an infant has been  
27 abandoned if:

28           (a) The parent has left the child under circumstances  
29 that the identity of the child was unknown and could not be  
30 ascertained, despite diligent searching, and the parent has  
31 not come forward to claim the child; or

32           (b) The parent has, [without good cause, left the  
33 child without any provision for parental support and without  
34 making arrangements to visit or communicate with the child,  
35 although able to do so] **for a period of sixty days,**  
36 **immediately prior to the filing of the petition for**  
37 **termination of parental rights, willfully, substantially,**  
38 **and continuously neglected to provide the child with**  
39 **necessary care and protection;** or

40           (c) The parent has voluntarily relinquished a child  
41 under section 210.950; or

42           (3) A court of competent jurisdiction has determined  
43 that the parent has:

44           (a) Committed murder of another child of the parent; or

45           (b) Committed voluntary manslaughter of another child  
46 of the parent; or

47           (c) Aided or abetted, attempted, conspired or  
48 solicited to commit such a murder or voluntary manslaughter;

49 or

50 (d) Committed a felony assault that resulted in  
51 serious bodily injury to the child or to another child of  
52 the parent; or

53 (4) The parent has been found guilty of or pled guilty  
54 to a felony violation of chapter 566, **567, 568,** or 573 when  
55 the child or any child [in the family] was a victim[, or a  
56 violation of section 568.020 or 568.065 when the child or  
57 any child in the family was a victim]. As used in this  
58 subdivision, a "child" means any person who was under  
59 eighteen years of age at the time of the [crime and who  
60 resided with such parent or was related within the third  
61 degree of consanguinity or affinity to such parent] **offense.**

62 3. A termination of parental rights petition shall be  
63 filed by the juvenile officer or the division, or if such a  
64 petition has been filed by another party, the juvenile  
65 officer or the division shall seek to be joined as a party  
66 to the petition, within sixty days of the judicial  
67 determinations required in subsection 2 of this section,  
68 except as provided in subsection 4 of this section. Failure  
69 to comply with this requirement shall not deprive the court  
70 of jurisdiction to adjudicate a petition for termination of  
71 parental rights which is filed outside of sixty days.

72 4. If grounds exist for termination of parental rights  
73 pursuant to subsection 2 of this section, the juvenile  
74 officer or the division may, but is not required to, file a  
75 petition to terminate the parental rights of the child's  
76 parent or parents if:

77 (1) The child is being cared for by a relative; or

78 (2) There exists a compelling reason for determining  
79 that filing such a petition would not be in the best  
80 interest of the child, as documented in the permanency plan  
81 which shall be made available for court review; or

82 (3) The family of the child has not been provided such  
83 services as provided for in section 211.183.

84 5. The juvenile officer or the division may file a  
85 petition to terminate the parental rights of the child's  
86 parent when it appears that one or more of the following  
87 grounds for termination exist:

88 (1) The child has been abandoned. For purposes of  
89 this subdivision a "child" means any child over [one year]  
90 **three years** of age at the time of filing of the petition.  
91 The court shall find that the child has been abandoned if,  
92 for a period of six months or longer:

93 (a) The parent has left the child under such  
94 circumstances that the identity of the child was unknown and  
95 could not be ascertained, despite diligent searching, and  
96 the parent has not come forward to claim the child; or

97 (b) The parent has, [without good cause, left the  
98 child without any provision for parental support and without  
99 making arrangements to visit or communicate with the child,  
100 although able to do so] **for a period of six months,**  
101 **immediately prior to the filing of the petition for**  
102 **termination of parental rights, willfully, substantially,**  
103 **and continuously neglected to provide the child with**  
104 **necessary care and protection;**

105 (2) The child has been abused or neglected. In  
106 determining whether to terminate parental rights pursuant to  
107 this subdivision, the court shall consider and make findings  
108 on the following conditions or acts of the parent:

109 (a) A mental condition which is shown by competent  
110 evidence either to be permanent or such that there is no  
111 reasonable likelihood that the condition can be reversed and  
112 which renders the parent unable to knowingly provide the  
113 child the necessary care, custody and control;

114 (b) Chemical dependency which prevents the parent from  
115 consistently providing the necessary care, custody and  
116 control of the child and which cannot be treated so as to  
117 enable the parent to consistently provide such care, custody  
118 and control;

119 (c) A severe act or recurrent acts of physical,  
120 emotional or sexual abuse toward the child or any child in  
121 the family by the parent, including an act of incest, or by  
122 another under circumstances that indicate that the parent  
123 knew or should have known that such acts were being  
124 committed toward the child or any child in the family; or

125 (d) Repeated or continuous failure by the parent,  
126 although physically or financially able, to provide the  
127 child with adequate food, clothing, shelter, or education as  
128 defined by law, or other care and control necessary for the  
129 child's physical, mental, or emotional health and  
130 development.

131 Nothing in this subdivision shall be construed to permit  
132 discrimination on the basis of disability or disease;

133 (3) The child has been under the jurisdiction of the  
134 juvenile court for a period of one year, and the court finds  
135 that the conditions which led to the assumption of  
136 jurisdiction still persist, or conditions of a potentially  
137 harmful nature continue to exist, that there is little  
138 likelihood that those conditions will be remedied at an  
139 early date so that the child can be returned to the parent  
140 in the near future, or the continuation of the parent-child  
141 relationship greatly diminishes the child's prospects for  
142 early integration into a stable and permanent home. In  
143 determining whether to terminate parental rights under this

144 subdivision, the court shall consider and make findings on  
145 the following:

146 (a) The terms of a social service plan entered into by  
147 the parent and the division and the extent to which the  
148 parties have made progress in complying with those terms;

149 (b) The success or failure of the efforts of the  
150 juvenile officer, the division or other agency to aid the  
151 parent on a continuing basis in adjusting his circumstances  
152 or conduct to provide a proper home for the child;

153 (c) A mental condition which is shown by competent  
154 evidence either to be permanent or such that there is no  
155 reasonable likelihood that the condition can be reversed and  
156 which renders the parent unable to knowingly provide the  
157 child the necessary care, custody and control;

158 (d) Chemical dependency which prevents the parent from  
159 consistently providing the necessary care, custody and  
160 control over the child and which cannot be treated so as to  
161 enable the parent to consistently provide such care, custody  
162 and control; or

163 (4) The child was conceived and born as a result of an  
164 act of forcible rape or rape in the first degree. When the  
165 biological father has pled guilty to, or is convicted of,  
166 the forcible rape or rape in the first degree of the birth  
167 mother, such a plea or conviction shall be conclusive  
168 evidence supporting the termination of the biological  
169 father's parental rights; or

170 (5) (a) The parent is unfit to be a party to the  
171 parent and child relationship because of a consistent  
172 pattern of committing a specific abuse including, but not  
173 limited to, specific conditions directly relating to the  
174 parent and child relationship which are determined by the  
175 court to be of a duration or nature that renders the parent

176 unable for the reasonably foreseeable future to care  
177 appropriately for the ongoing physical, mental, or emotional  
178 needs of the child.

179 (b) It is presumed that a parent is unfit to be a  
180 party to the parent and child relationship upon a showing  
181 that:

182 a. Within a three-year period immediately prior to the  
183 termination adjudication, the parent's parental rights to  
184 one or more other children were involuntarily terminated  
185 pursuant to subsection 2 or 4 of this section or subdivision  
186 (1), (2), or (3) of this subsection or similar laws of other  
187 states;

188 b. If the parent is the birth mother and within eight  
189 hours after the child's birth, the child's birth mother  
190 tested positive and over eight-hundredths of one percent  
191 blood alcohol content pursuant to testing under section  
192 577.020 for alcohol, or tested positive for cocaine, heroin,  
193 methamphetamine, a controlled substance as defined in  
194 section 195.010, or a prescription drug as defined in  
195 section 196.973, excepting those controlled substances or  
196 prescription drugs present in the mother's body as a result  
197 of medical treatment administered to the mother, and the  
198 birth mother is the biological mother of at least one other  
199 child who was adjudicated an abused or neglected minor by  
200 the mother or the mother has previously failed to complete  
201 recommended treatment services by the children's division  
202 through a family-centered services case;

203 c. If the parent is the birth mother and at the time  
204 of the child's birth or within eight hours after a child's  
205 birth the child tested positive for alcohol, cocaine,  
206 heroin, methamphetamine, a controlled substance as defined  
207 in section 195.010, or a prescription drug as defined in

208 section 196.973, excepting those controlled substances or  
209 prescription drugs present in the mother's body as a result  
210 of medical treatment administered to the mother, and the  
211 birth mother is the biological mother of at least one other  
212 child who was adjudicated an abused or neglected minor by  
213 the mother or the mother has previously failed to complete  
214 recommended treatment services by the children's division  
215 through a family-centered services case; **[or]**

216 d. Within a three-year period immediately prior to the  
217 termination adjudication, the parent has pled guilty to or  
218 has been convicted of a felony involving the possession,  
219 distribution, or manufacture of cocaine, heroin, or  
220 methamphetamine, and the parent is the biological parent of  
221 at least one other child who was adjudicated an abused or  
222 neglected minor by such parent or such parent has previously  
223 failed to complete recommended treatment services by the  
224 children's division through a family-centered services case;  
225 **or**

226 **e. For at least fifteen of the twenty-two months prior**  
227 **to the filing of the petition, the child has been under the**  
228 **jurisdiction of the juvenile court.**

229 6. The juvenile court may terminate the rights of a  
230 parent to a child upon a petition filed by the juvenile  
231 officer or the division, or in adoption cases, by a  
232 prospective parent, if the court finds that the termination  
233 is in the best interest of the child and when it appears by  
234 clear, cogent and convincing evidence that grounds exist for  
235 termination pursuant to subsection 2, 4 or 5 of this section.

236 7. When considering whether to terminate the parent-  
237 child relationship pursuant to subsection 2 or 4 of this  
238 section or subdivision (1), (2), or (3) of subsection 5 of  
239 this section, the court shall evaluate and make findings on

240 the following factors, when appropriate and applicable to  
241 the case:

242 (1) The emotional ties to the birth parent;

243 (2) The extent to which the parent has maintained  
244 regular visitation or other contact with the child;

245 (3) The extent of payment by the parent for the cost  
246 of care and maintenance of the child when financially able  
247 to do so including the time that the child is in the custody  
248 of the division or other child-placing agency;

249 (4) Whether additional services would be likely to  
250 bring about lasting parental adjustment enabling a return of  
251 the child to the parent within an ascertainable period of  
252 time;

253 (5) The parent's disinterest in or lack of commitment  
254 to the child;

255 (6) The conviction of the parent of a felony offense  
256 that the court finds is of such a nature that the child will  
257 be deprived of a stable home for a period of years;  
258 provided, however, that incarceration in and of itself shall  
259 not be grounds for termination of parental rights;

260 (7) Deliberate acts of the parent or acts of another  
261 of which the parent knew or should have known that subjects  
262 the child to a substantial risk of physical or mental harm.

263 8. The court may attach little or no weight to  
264 infrequent visitations, communications, or contributions.  
265 It is irrelevant in a termination proceeding that the  
266 maintenance of the parent-child relationship may serve as an  
267 inducement for the parent's rehabilitation.

268 9. In actions for adoption pursuant to chapter 453,  
269 the court may hear and determine the issues raised in a  
270 petition for adoption containing a prayer for termination of

271 parental rights filed with the same effect as a petition  
272 permitted pursuant to subsection 2, 4, or 5 of this section.

273       10. The disability or disease of a parent shall not  
274 constitute a basis for a determination that a child is a  
275 child in need of care, for the removal of custody of a child  
276 from the parent, or for the termination of parental rights  
277 without a specific showing that there is a causal relation  
278 between the disability or disease and harm to the child.

279       11. A court of competent jurisdiction may terminate  
280 the parental rights of a biological father of a child if he  
281 is an alleged perpetrator of forcible rape under section  
282 566.030 as it existed prior to August 28, 2013, or rape in  
283 the first degree under section 566.030 that resulted in the  
284 conception and birth of the child. The biological mother  
285 who is the victim of the forcible rape or rape in the first  
286 degree or, if she is a minor, someone on her behalf may file  
287 a petition to terminate the parental rights of the  
288 biological father. The court may terminate the parental  
289 rights of the biological father if the court finds that by:

290       (1) Clear, cogent, and convincing evidence the  
291 biological father committed the act of forcible rape or rape  
292 in the first degree against the biological mother;

293       (2) Clear, cogent, and convincing evidence the child  
294 was conceived as a result of that act of forcible rape or  
295 rape in the first degree; and

296       (3) The preponderance of the evidence the termination  
297 of the parental rights of the biological father is in the  
298 best interests of the child.

299       12. In any action to terminate the parental rights of  
300 the biological father under subsection 11 of this section or  
301 subdivision (5) of subsection 5 of this section, a court of  
302 competent jurisdiction may order that the mother and the

303 child conceived and born as a result of forcible rape or  
304 rape in the first degree are entitled to obtain from the  
305 biological father certain payments, support, beneficiary  
306 designations, or other financial benefits. The court shall  
307 issue such order only if the mother gives her consent;  
308 provided, that the court shall first inform the mother that  
309 such order may require or obligate the mother to have  
310 continuous or future communication and contact with the  
311 biological father. Such order shall be issued without the  
312 biological father being entitled to or granted any custody,  
313 guardianship, visitation privileges, or other parent-child  
314 relationship, and may include any or all of the following:

315 (1) Payment for the reasonable expenses of the mother  
316 or the child, or both, related to pregnancy, labor,  
317 delivery, postpartum care, newborn care, or early childhood  
318 care;

319 (2) Child support under this chapter or chapter 210,  
320 452, or 454;

321 (3) All rights of the child to inherit under the  
322 probate code, as defined in section 472.010; provided that,  
323 for purposes of intestate succession, the biological father  
324 or his kindred shall have no right to inherit from or  
325 through the child;

326 (4) The designation of the child as the beneficiary of  
327 a life or accidental death insurance policy, annuity,  
328 contract, plan, or other product sold or issued by a life  
329 insurance company; or

330 (5) Any other payments, support, beneficiary  
331 designations, or financial benefits that are in the best  
332 interests of the child or for the reasonable expenses of the  
333 mother, or both.

334 If the mother declines to seek a court order for child  
335 support under this subsection, no state agency shall require  
336 the mother to do so in order to receive public assistance  
337 benefits for herself or the child, including, but not  
338 limited to, benefits for temporary assistance for needy  
339 families, supplemental nutrition assistance program, or MO  
340 HealthNet. The court order terminating the parental rights  
341 of the biological father under subdivision (5) of subsection  
342 5 of this section or subsection 11 of this section shall  
343 serve as a sufficient basis for a good cause or other  
344 exemptions under 42 U.S.C. Section 654(29) and the state  
345 agency shall not require the mother or the child to  
346 otherwise provide the identity, location, income, or assets  
347 of the biological father or have contact or communicate with  
348 the biological father. However, nothing in this subsection  
349 shall prohibit a state agency from requesting that the  
350 mother assign any child support rights she receives under  
351 this subsection to the state as a condition of receipt of  
352 public assistance benefits under applicable federal and  
353 state law.

453.014. 1. The following persons may place a minor  
2 for adoption:

3 (1) The children's division of the department of  
4 social services;

5 (2) A child placing agency licensed pursuant to  
6 sections 210.481 to 210.536;

7 (3) The child's parents, without the direct or  
8 indirect assistance of an intermediary, in the home of a  
9 relative of the child within the third degree;

10 (4) An intermediary, which shall include an attorney  
11 licensed pursuant to chapter 484; a physician licensed  
12 pursuant to chapter 334; or a clergyman of the parents.

13           2. All persons granted the authority to place a minor  
14 child for adoption as designated in subdivision (1), (2) or  
15 (4) of subsection 1 of this section shall comply with the  
16 rules and regulations promulgated by the **children's division**  
17 **of the** department of social services [and the department of  
18 health and senior services] for such placement.

19           3. The children's division of the department of social  
20 services [and the department of health and senior services]  
21 shall promulgate rules and regulations regarding the  
22 placement of a minor for adoption.

23           4. No rule or portion of a rule promulgated under the  
24 authority of this section shall become effective unless it  
25 has been promulgated pursuant to the provisions of section  
26 536.024.

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

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

16           3. With the exceptions specifically enumerated in  
17 section 453.040, when the person sought to be adopted is  
18 under the age of eighteen years, the written consent of the

19 following persons shall be required and filed in and made a  
20 part of the files and record of the proceeding:

21 (1) The mother of the child;

22 (2) Any man who:

23 (a) Is presumed to be the father pursuant to  
24 subdivision (1), (2), or (3) of subsection 1 of section  
25 210.822; or

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

30 (c) Filed with the putative father registry pursuant  
31 to section 192.016 a notice of intent to claim paternity or  
32 an acknowledgment of paternity either prior to or within  
33 fifteen days after the child's birth, and has filed an  
34 action to establish his paternity in a court of competent  
35 jurisdiction no later than fifteen days after the birth of  
36 the child; and

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

39 Upon request by the petitioner and within one business day  
40 of such request, the clerk of the local court shall verify  
41 whether such written consents have been filed with the court.

42 4. The written consent required in subdivisions (2)  
43 and (3) of subsection 3 of this section may be executed  
44 before or after the birth of the child or before or after  
45 the commencement of the adoption proceedings, and shall be  
46 executed in front of a judge or acknowledged before a notary  
47 public. If consent is executed in front of a judge, it  
48 shall be the duty of the judge to advise the consenting  
49 birth parent of the consequences of the consent. In lieu of

50 such acknowledgment, the signature of the person giving such  
51 written consent shall be witnessed by the signatures of at  
52 least two adult persons whose signatures and addresses shall  
53 be plainly written thereon. The two adult witnesses shall  
54 not be the prospective adoptive parents or any attorney  
55 representing a party to the adoption proceeding other than  
56 the attorney representing the party signing the consent.  
57 The notary public or witnesses shall verify the identity of  
58 the party signing the consent. Notwithstanding any other  
59 provision of law to the contrary, a properly executed  
60 written consent under this subsection shall be considered  
61 irrevocable.

62 5. The written consent required in subdivision (1) of  
63 subsection 3 of this section by the birth mother shall not  
64 be executed anytime before the child is forty-eight hours  
65 old. Such written consent shall be executed in front of a  
66 judge or acknowledged before a notary public. If consent is  
67 executed in front of a judge, it shall be the duty of the  
68 judge to advise the consenting party of the consequences of  
69 the consent. In lieu of acknowledgment before a notary  
70 public, the signature of the person giving such written  
71 consent shall be witnessed by the signatures of at least two  
72 adult persons who are present at the execution whose  
73 signatures and addresses shall be plainly written thereon  
74 and who determine and certify that the consent is knowingly  
75 and freely given. The two adult witnesses shall not be the  
76 prospective adoptive parents or any attorney representing a  
77 party to the adoption proceeding other than the attorney  
78 representing the party signing the consent. The notary  
79 public or witnesses shall verify the identity of the party  
80 signing the consent.

81           6. A consent is final when executed, unless the  
82 consenting party, prior to a final decree of adoption,  
83 alleges and proves by clear and convincing evidence that the  
84 consent was not freely and voluntarily given. The burden of  
85 proving the consent was not freely and voluntarily given  
86 shall rest with the consenting party. Consents in all cases  
87 shall have been executed not more than six months prior to  
88 the date the petition for adoption is filed.

89           7. A consent form shall be developed through rules and  
90 regulations promulgated by the **children's division of the**  
91 department of social services. No rule or portion of a rule  
92 promulgated under the authority of this section shall become  
93 effective unless it has been promulgated pursuant to the  
94 provisions of chapter 536. If a written consent is obtained  
95 after August 28, 1997, but prior to the development of a  
96 consent form by the department and the written consent  
97 complies with the provisions of subsection 8 of this  
98 section, such written consent shall be deemed valid.

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

100           (1) The birth parent understands the importance of  
101 identifying all possible fathers of the child and may  
102 provide the names of all such persons; and

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

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

112           10. Where the person sought to be adopted is eighteen  
113 years of age or older, his or her written consent alone to  
114 his or her adoption shall be sufficient.

115           11. A birth parent, including a birth parent less than  
116 eighteen years of age, shall have the right to legal  
117 representation [and payment of any reasonable legal fees  
118 incurred throughout the adoption process. In addition, the  
119 court may appoint an attorney to represent a birth parent if:

120           (1) A birth parent requests representation;

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

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

126           12. Except in cases where the court determines that  
127 the adoptive parents are unable to pay reasonable attorney  
128 fees and appoints pro bono counsel for the birth parents,  
129 the court shall order the costs of the attorney fees  
130 incurred pursuant to subsection 11 of this section to be  
131 paid by the prospective adoptive parents or the child-  
132 placing agency.

133           13.] **12.** The court shall receive and acknowledge a  
134 written consent to adoption properly executed by a birth  
135 parent under this section when such consent is in the best  
136 interests of the child.

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

3           (1) A parent whose rights with reference to the child  
4 have been terminated pursuant to law, including section  
5 211.444 or section 211.447 or other similar laws in other  
6 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  
12 father and who is not presumed by law to be the father, and  
13 who, after the conception of the child, executes a verified  
14 statement denying paternity and disclaiming any interest in  
15 the child and acknowledging that this statement is  
16 irrevocable when executed and follows the consent as set  
17 forth in section 453.030;

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

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

28           (7) A parent who has for a period of at least six  
29 months, for a child [one year] **three years** of age or older,  
30 or at least sixty days, for a child under [one year] **three**  
31 **years** of age, immediately prior to the filing of the  
32 petition for adoption, [willfully abandoned the child or,  
33 for a period of at least six months immediately prior to the  
34 filing of the petition for adoption,] willfully,  
35 substantially and continuously neglected to provide [him]  
36 **the child** with necessary care and protection;

37           (8) A parent whose rights to the child may be  
38 terminated for any of the grounds set forth in section

39 211.447 and whose rights have been terminated after hearing  
40 and proof of such grounds as required by sections 211.442 to  
41 211.487. Such petition for termination may be filed as a  
42 count in an adoption petition.

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

15 2. Such investigation shall be made, as directed by  
16 the court having jurisdiction, either by the children's  
17 division of the department of social services, a juvenile  
18 court officer, a licensed child-placement agency, a social  
19 worker, a professional counselor, or a psychologist licensed  
20 under chapter 337 and associated with a licensed child-  
21 placement agency, or other suitable person appointed by the  
22 court. The results of such investigation shall be embodied  
23 in a written report that shall be submitted to the court  
24 within ninety days of the request for the investigation.

25 3. The children's division shall develop rules and  
26 regulations regarding the content of the assessment of the  
27 petitioner or petitioners. The content of the assessment  
28 shall include but not be limited to a report on the

29 condition of the petitioner's home and information on the  
30 petitioner's education, financial, marital, medical and  
31 psychological status and criminal background check. If an  
32 assessment is conducted after August 28, 1997, but prior to  
33 the promulgation of rules and regulations by the  
34 [department] **children's division** concerning the contents of  
35 such assessment, any discrepancy between the contents of the  
36 actual assessment and the contents of the assessment  
37 required by [department] **children's division** rule shall not  
38 be used as the sole basis for invalidating an adoption. No  
39 rule or portion of a rule promulgated pursuant to the  
40 authority of this section shall become effective unless it  
41 has been promulgated pursuant to the provisions of chapter  
42 536.

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

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

55 6. In the case of an investigation and report made by  
56 the children's division by order of the court, the court may  
57 order the payment of a reasonable fee by the petitioner to  
58 cover the costs of the investigation and report.

59 7. Any adult person or persons over the age of  
60 eighteen who, as foster parent or parents, have cared for a

61 foster child continuously for a period of nine months or  
62 more and bonding has occurred as evidenced by the positive  
63 emotional and physical interaction between the foster parent  
64 and child, may apply to such authorized agency for the  
65 placement of such child with them for the purpose of  
66 adoption if the child is eligible for adoption. The agency  
67 and court shall give preference and first consideration for  
68 adoptive placements to foster parents. However, the final  
69 determination of the propriety of the adoption of such  
70 foster child shall be within the sole discretion of the  
71 court.

72 8. (1) Nothing in this section shall be construed to  
73 permit discrimination on the basis of disability or disease  
74 of a prospective adoptive parent.

75 (2) The disability or disease of a prospective  
76 adoptive parent shall not constitute a basis for a  
77 determination that the petitioner is unfit or not suitable  
78 to be an adoptive parent without a specific showing that  
79 there is a causal relationship between the disability or  
80 disease and a substantial and significant risk of harm to a  
81 child.

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