

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1443

AN ACT

To repeal sections 192.016 and 453.030, RSMo, and to enact in lieu thereof three new sections relating to child abandonment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 192.016 and 453.030 RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as
3 sections 192.016, 210.950 and 453.030, to read as follows:

4 192.016. 1. The department of health and senior services
5 shall establish a putative father registry which shall record the
6 names and addresses of:

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

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

12 (3) Any person adjudicated by a court of another state or
13 territory of the United States to be the father of an
14 out-of-wedlock child, where a certified copy of the court order

1 has been filed with the registry by such person or any other
2 person.

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

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

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

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

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

26 7. The department of health and senior services shall:

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

1 (2) Produce and distribute a pamphlet or publication
2 informing the public about the putative father registry,
3 including the procedures for voluntary acknowledgment of
4 paternity, the consequences of acknowledgment and failure to
5 acknowledge paternity pursuant to section 453.010, RSMo, and the
6 address of the putative father registry. Such pamphlet or
7 publication shall be made available for distribution at all
8 offices of the department of health and senior services. The
9 department shall also provide such pamphlets or publications to
10 the department of social services, hospitals, libraries, medical
11 clinics, schools, universities, and other providers of
12 child-related services upon request;

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

17 210.950. 1. This section shall be known and may be cited
18 as the "Safe Place for Newborns Act of 2002". The purpose of
19 this section is to protect newborn children from injury and death
20 caused by abandonment by a parent, and to provide safe and secure
21 alternatives to such abandonment.

22 2. As used in this section, the following terms mean:

23 (1) "Hospital", as defined in section 197.020, RSMo;

24 (2) "Nonrelinquishing parent", the biological parent who
25 does not leave a newborn infant with any person listed in
26 subsection 3 of this section in accordance with this section;

27 (3) "Relinquishing parent", the biological parent or person
28 acting on such parent's behalf who leaves a newborn infant with

1 any person listed in subsection 3 of this section in accordance
2 with this section.

3 3. A parent shall not be prosecuted for a violation of
4 sections 568.030, 568.032, 568.045 or 568.050, RSMo, for actions
5 related to the voluntary relinquishment of a child up to five
6 days old pursuant to this section and it shall be an affirmative
7 defense to prosecution for a violation of sections 568.030,
8 568.032, 568.045 and 568.050, RSMo, that a parent who is a
9 defendant voluntarily relinquished a child no less than six days
10 old but no more than thirty days old pursuant to this section if:

11 (1) Expressing intent not to return for the child, the
12 parent voluntarily delivered the child safely to the physical
13 custody of any of the following persons:

14 (a) An employee, agent, or member of the staff of any
15 hospital, in a health care provider position or on duty in a
16 nonmedical paid or volunteer position;

17 (b) A firefighter or emergency medical technician on duty
18 in a paid position or on duty in a volunteer position; or

19 (c) A law enforcement officer;

20 (2) The child was no more than thirty days old when
21 delivered by the parent to any person listed in subdivision (1)
22 of this subsection; and

23 (3) The child has not been abused or neglected by the
24 parent prior to such voluntary delivery.

25 4. A person listed in subdivision (1) of subsection 3 of
26 this section shall, without a court order, take physical custody
27 of a child the person reasonably believes to be no more than
28 thirty days old and is delivered in accordance with this section

1 by a person purporting to be the child's parent. If delivery of
2 a newborn is made pursuant to this section in any place other
3 than a hospital, the person taking physical custody of the child
4 shall arrange for the immediate transportation of the child to
5 the nearest hospital licensed pursuant to chapter 197, RSMo.

6 5. The hospital, its employees, agents and medical staff
7 shall perform treatment in accordance with the prevailing
8 standard of care as necessary, to protect the physical health or
9 safety of the child. The hospital shall notify the division of
10 family services and the local juvenile officer upon receipt of a
11 child pursuant to this section. The local juvenile officer shall
12 immediately begin protective custody proceedings and request the
13 child be made a ward of the court during the child's stay in the
14 medical facility. Upon discharge of the child from the medical
15 facility and pursuant to a protective custody order ordering
16 custody of the child to the division, the division of family
17 services shall take physical custody of the child. The parent's
18 voluntary delivery of the child in accordance with this section
19 shall constitute the parent's implied consent to any such act and
20 a voluntary relinquishment of such parent's parental rights.

21 6. In any termination of parental rights proceeding
22 initiated after the relinquishment of a child pursuant to this
23 section, the juvenile officer shall make public notice that a
24 child has been relinquished, including the sex of the child, and
25 the date and location of such relinquishment. Within thirty days
26 of such public notice, the nonrelinquishing parent wishing to
27 establish parental rights shall identify himself or herself to
28 the court and state his or her intentions regarding the child.

1 The court shall initiate proceedings to establish paternity, or
2 if no person identifies himself as the father within thirty days,
3 maternity. The juvenile officer shall make examination of the
4 putative father registry established in section 192.016, RSMo, to
5 determine whether attempts have previously been made to preserve
6 parental rights to the child. If such attempts have been made,
7 the juvenile officer shall make reasonable efforts to provide
8 notice of the abandonment of the child to such putative father.

9 7. (1) If a relinquishing parent of a child relinquishes
10 custody of the child to any person listed in subsection 3 of this
11 section in accordance with this section and to preserve the
12 parental rights of the nonrelinquishing parent, the
13 nonrelinquishing parent shall take such steps necessary to
14 establish parentage within thirty days after the public notice or
15 specific notice provided in subsection 6 of this section.

16 (2) If a nonrelinquishing parent fails to take steps to
17 establish parentage within the thirty-day period specified in
18 subdivision (1) of this subsection, the nonrelinquishing parent
19 may have all of his or her rights terminated with respect to the
20 child.

21 (3) When a nonrelinquishing parent inquires at a hospital
22 regarding a child whose custody was relinquished pursuant to this
23 section, such facility shall refer the nonrelinquishing parent to
24 the division of family services and the juvenile court exercising
25 jurisdiction over the child.

26 8. The persons listed in subdivision (1) of subsection 3 of
27 this section shall be immune from civil, criminal, and
28 administrative liability for accepting physical custody of a

1 child pursuant to this section if such persons accept custody in
2 good faith. Such immunity shall not extend to any acts or
3 omissions, including negligent or intentional acts or omissions,
4 occurring after the acceptance of such child.

5 9. The division of family services shall:

6 (1) Provide information and answer questions about the
7 process established by this section on the statewide, toll-free
8 telephone number maintained pursuant to section 210.145, RSMo;

9 (2) Provide information to the public by way of pamphlets,
10 brochures, or by other ways to deliver information about the
11 process established by this section.

12 10. Nothing in this section shall be construed as
13 conflicting with section 210.125.

14 453.030. 1. In all cases the approval of the court of the
15 adoption shall be required and such approval shall be given or
16 withheld as the welfare of the person sought to be adopted may,
17 in the opinion of the court, demand.

18 2. The written consent of the person to be adopted shall be
19 required in all cases where the person sought to be adopted is
20 fourteen years of age or older, except where the court finds that
21 such child has not sufficient mental capacity to give the same.

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

27 (1) The mother of the child; and

28 (2) Any man who:

1 (a) Is presumed to be the father pursuant to the
2 subdivisions (1), (2), or (3) [or (5)] of subsection 1 of section
3 210.822, RSMo; 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; or

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

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

15
16 Upon request by the petitioner and within one business day of
17 such request, the clerk of the local court shall verify whether
18 such written consents have been filed with the court.

19 4. The written consent required in subdivisions (2) and (3)
20 of subsection 3 of this section may be executed before or after
21 the commencement of the adoption proceedings, and shall be
22 acknowledged before a notary public. In lieu of such
23 acknowledgment, the signature of the person giving such written
24 consent shall be witnessed by the signatures of at least two
25 adult persons whose signatures and addresses shall be plainly
26 written thereon. The two adult witnesses shall not be the
27 prospective adoptive parents or any attorney representing a party
28 to the adoption proceeding. The notary public or witnesses shall

1 verify the identity of the party signing the consent.

2 5. The written consent required in subdivision (1) of
3 subsection 3 of this section by the birth parent shall not be
4 executed anytime before the child is forty-eight hours old. Such
5 written consent shall be executed in front of a judge or a notary
6 public. In lieu of such acknowledgment, the signature of the
7 person giving such written consent shall be witnessed by the
8 signatures of at least two adult persons who are present at the
9 execution whose signatures and addresses shall be plainly written
10 thereon and who determine and certify that the consent is
11 knowingly and freely given. The two adult witnesses shall not be
12 the prospective adoptive parents or any attorney representing a
13 party to the adoption proceeding. The notary public or witnesses
14 shall verify the identity of the party signing the consent.

15 6. The written consents shall be reviewed and, if found to
16 be in compliance with this section, approved by the court within
17 three business days of such consents being presented to the
18 court. Upon review, in lieu of approving the consent within
19 three business days, the court may set a date for a prompt
20 evidentiary hearing upon notice to the parties. Failure to
21 review and approve the written consent within three business days
22 shall not void the consent, but a party may seek a writ of
23 mandamus from the appropriate court, unless an evidentiary
24 hearing has been set by the court pursuant to this subsection.

25 7. The written consent required in subsection 3 of this
26 section may be withdrawn anytime until it has been reviewed and
27 accepted by a judge.

28 8. A consent form shall be developed through rules and

1 regulations promulgated by the department of social services. No
2 rule or portion of a rule promulgated under the authority of this
3 section shall become effective unless it has been promulgated
4 pursuant to the provisions of chapter 536, RSMo. If a written
5 consent is obtained after August 28, 1997, but prior to the
6 development of a consent form by the department and the written
7 consent complies with the provisions of subsection 9 of this
8 section, such written consent shall be deemed valid.

9 9. However, the consent form must specify that:

10 (1) The birth parent understands the importance of
11 identifying all possible fathers of the child and shall provide
12 the names of all such persons unless the mother has good cause as
13 to why she should not name such persons. The court shall
14 determine if good cause is justifiable. By signing the consent,
15 the birth parent acknowledges that those having an interest in
16 the child have been supplied with all available information to
17 assist in locating all possible fathers; and

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

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

27 11. Where the person sought to be adopted is eighteen years
28 of age or older, his written consent alone to his adoption shall

1 be sufficient.

2 12. 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 13. 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 12 of this section to be paid by the prospective
17 adoptive parents or the child-placing agency.