

SECOND REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 1443**  
**91ST GENERAL ASSEMBLY**

3865S.09T

2002

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**AN ACT**

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

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

Section A. Sections 192.016 and 453.030, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 192.016, 210.950 and 453.030, to read as follows:

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(2)(7)] **652 (a)(7)**.

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

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

15 of any change of address.

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

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

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

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

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

30 (2) Produce and distribute a pamphlet or publication informing the public about the  
31 putative father registry, including the procedures for voluntary acknowledgment of paternity, the  
32 consequences of acknowledgment and failure to acknowledge paternity pursuant to section  
33 453.010, RSMo, and the address of the putative father registry. Such pamphlet or publication  
34 shall be made available for distribution at all offices of the department of health and senior  
35 services. The department shall also provide such pamphlets or publications to the department  
36 of social services, hospitals, libraries, medical clinics, schools, universities, and other providers  
37 of child-related services upon request;

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

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

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

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

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

**9 (3) "Relinquishing parent", the biological parent or person acting on such parent's  
10 behalf who leaves a newborn infant with any person listed in subsection 3 of this section**

11 in accordance with this section.

12       **3. A parent shall not be prosecuted for a violation of sections 568.030, 568.032,**  
13 **568.045 or 568.050, RSMo, for actions related to the voluntary relinquishment of a child**  
14 **up to five days old pursuant to this section and it shall be an affirmative defense to**  
15 **prosecution for a violation of sections 568.030, 568.032, 568.045 and 568.050, RSMo, that**  
16 **a parent who is a defendant voluntarily relinquished a child no less than six days old but**  
17 **no more than thirty days old pursuant to this section if:**

18       **(1) Expressing intent not to return for the child, the parent voluntarily delivered**  
19 **the child safely to the physical custody of any of the following persons:**

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

22       **(b) A firefighter or emergency medical technician on duty in a paid position or on**  
23 **duty in a volunteer position; or**

24       **(c) A law enforcement officer;**

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

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

29       **4. A person listed in subdivision (1) of subsection 3 of this section shall, without a**  
30 **court order, take physical custody of a child the person reasonably believes to be no more**  
31 **than thirty days old and is delivered in accordance with this section by a person purporting**  
32 **to be the child's parent. If delivery of a newborn is made pursuant to this section in any**  
33 **place other than a hospital, the person taking physical custody of the child shall arrange**  
34 **for the immediate transportation of the child to the nearest hospital licensed pursuant to**  
35 **chapter 197, RSMo.**

36       **5. The hospital, its employees, agents and medical staff shall perform treatment in**  
37 **accordance with the prevailing standard of care as necessary, to protect the physical health**  
38 **or safety of the child. The hospital shall notify the division of family services and the local**  
39 **juvenile officer upon receipt of a child pursuant to this section. The local juvenile officer**  
40 **shall immediately begin protective custody proceedings and request the child be made a**  
41 **ward of the court during the child's stay in the medical facility. Upon discharge of the**  
42 **child from the medical facility and pursuant to a protective custody order ordering custody**  
43 **of the child to the division, the division of family services shall take physical custody of the**  
44 **child. The parent's voluntary delivery of the child in accordance with this section shall**  
45 **constitute the parent's implied consent to any such act and a voluntary relinquishment of**  
46 **such parent's parental rights.**

47           **6. In any termination of parental rights proceeding initiated after the**  
48 **relinquishment of a child pursuant to this section, the juvenile officer shall make public**  
49 **notice that a child has been relinquished, including the sex of the child, and the date and**  
50 **location of such relinquishment. Within thirty days of such public notice, the**  
51 **nonrelinquishing parent wishing to establish parental rights shall identify himself or**  
52 **herself to the court and state his or her intentions regarding the child. The court shall**  
53 **initiate proceedings to establish paternity, or if no person identifies himself as the father**  
54 **within thirty days, maternity. The juvenile officer shall make examination of the putative**  
55 **father registry established in section 192.016, RSMo, to determine whether attempts have**  
56 **previously been made to preserve parental rights to the child. If such attempts have been**  
57 **made, the juvenile officer shall make reasonable efforts to provide notice of the**  
58 **abandonment of the child to such putative father.**

59           **7. (1) If a relinquishing parent of a child relinquishes custody of the child to any**  
60 **person listed in subsection 3 of this section in accordance with this section and to preserve**  
61 **the parental rights of the nonrelinquishing parent, the nonrelinquishing parent shall take**  
62 **such steps necessary to establish parentage within thirty days after the public notice or**  
63 **specific notice provided in subsection 6 of this section.**

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

67           **(3) When a nonrelinquishing parent inquires at a hospital regarding a child whose**  
68 **custody was relinquished pursuant to this section, such facility shall refer the**  
69 **nonrelinquishing parent to the division of family services and the juvenile court exercising**  
70 **jurisdiction over the child.**

71           **8. The persons listed in subdivision (1) of subsection 3 of this section shall be**  
72 **immune from civil, criminal, and administrative liability for accepting physical custody of**  
73 **a child pursuant to this section if such persons accept custody in good faith. Such**  
74 **immunity shall not extend to any acts or omissions, including negligent or intentional acts**  
75 **or omissions, occurring after the acceptance of such child.**

76           **9. The division of family services shall:**

77           **(1) Provide information and answer questions about the process established by this**  
78 **section on the statewide, toll-free telephone number maintained pursuant to section**  
79 **210.145, RSMo;**

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

82           **10. Nothing in this section shall be construed as conflicting with section 210.125.**

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

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

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

(1) The mother of the child; and

(2) Any man who:

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

(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or

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

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

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

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

5. The written consent required in subdivision (1) of subsection 3 of this section by the birth parent shall not be executed anytime before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall

37 be plainly written thereon and who determine and certify that the consent is knowingly and freely  
38 given. The two adult witnesses shall not be the prospective adoptive parents or any attorney  
39 representing a party to the adoption proceeding. The notary public or witnesses shall verify the  
40 identity of the party signing the consent.

41 6. The written consents shall be reviewed and, if found to be in compliance with this  
42 section, approved by the court within three business days of such consents being presented to the  
43 court. Upon review, in lieu of approving the consent within three business days, the court may  
44 set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and  
45 approve the written consent within three business days shall not void the consent, but a party may  
46 seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set  
47 by the court pursuant to this subsection.

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

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

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

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

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

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

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

70 12. A birth parent, including a birth parent less than eighteen years of age, shall have the  
71 right to legal representation and payment of any reasonable legal fees incurred throughout the  
72 adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

- 73           (1) A birth parent requests representation;
- 74           (2) The court finds that hiring an attorney to represent such birth parent would cause a
- 75 financial hardship for the birth parent; and
- 76           (3) The birth parent is not already represented by counsel.
- 77           13. Except in cases where the court determines that the adoptive parents are unable to
- 78 pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall
- 79 order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid
- 80 by the prospective adoptive parents or the child-placing agency.