

SECOND REGULAR SESSION

HOUSE BILL NO. 2139

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HUGHES.

Read 1st time March 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5708L.02I

AN ACT

To repeal section 453.030, RSMo, and to enact in lieu thereof one new section relating to adoption.

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

Section A. Section 453.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 453.030, to read as follows:

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) Only the man who:

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (b) Has filed an action to establish his paternity in a court of competent jurisdiction no
15 later than [fifteen] **sixty** days after the birth of the child and has served a copy of the petition on
16 the mother in accordance with section 506.100, RSMo; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

71 (1) A birth parent requests representation;

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

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

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

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