

SECOND REGULAR SESSION

HOUSE BILL NO. 1317

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELLINGER (Sponsor), CURTIS, KIRKTON,
MCCANN BEATTY, ROORDA, NICHOLS, SCHUPP AND GARDNER (Co-sponsors).

4127L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 192.016 and 453.030, RSMo, and to enact in lieu thereof two new sections relating to establishment of paternity.

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Section A. Sections 192.016 and 453.030, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 192.016 and 453.030, to read as follows: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(a)(7).

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

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.

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. Lack of knowledge of the pregnancy does not excuse failure to timely file pursuant
24 to paragraph (b) or (c) of subdivision (2) of subsection 3 of section 453.030.

25 7. Failure to timely file pursuant to paragraph (b) or (c) of subsection 3 of section
26 453.030 shall waive a man's right to withhold consent to an adoption proceeding unless:

27 (1) The person was led to believe through the mother's misrepresentation or fraud that:

28 (a) The mother was not pregnant when in fact she was; or

29 (b) The pregnancy was terminated when in fact the baby was born; or

30 (c) After the birth, the child died when in fact the child is alive; and

31 (2) The person upon the discovery of the misrepresentation or fraud satisfied the
32 requirements of paragraph (b) or (c) of **subdivision (2) of** subsection 3 of section 453.030 within
33 [fifteen] **sixty** days of that discovery.

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

38 9. The department of health and senior services shall:

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

41 (2) Produce and distribute a pamphlet or publication informing the public about the
42 putative father registry, including the procedures for voluntary acknowledgment of paternity, the
43 consequences of acknowledgment and failure to acknowledge paternity pursuant to section
44 453.010, a copy of a statement informing the public about the putative father registry, including
45 to whom and under what circumstances it applies, the time limits and responsibilities for filing,
46 protection of paternal rights and associated responsibilities, and other provisions of this section,
47 and a detachable form meeting the requirements of subsection 2 of this section addressed to the
48 putative father registry. Such pamphlet or publication shall be made available for distribution
49 at all offices of the department of health and senior services. The department shall also provide
50 such pamphlets or publications to the department of social services, hospitals, libraries, medical
51 clinics, schools, universities, and other providers of child-related services upon request;

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

55 10. Pursuant to subdivision (2) of subsection 9 of this section, a statement prepared by
56 the department of health and senior services shall be contained in any pamphlet or publication
57 informing the public about the putative father registry.

58 11. There is hereby created in the state treasury the "Putative Father Registry Fund",
59 which shall consist of moneys collected under section 453.020. Upon appropriation, moneys in
60 the fund shall be used solely for the administration of the putative father registry.
61 Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not
62 revert to the credit of general revenue at the end of the biennium, but shall be used upon
63 appropriations by the general assembly for the purpose of carrying out the provisions of this
64 chapter.

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

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

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

14 (1) The mother of the child; and

15 (2) Only the man who:

16 (a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection
17 1 of section 210.822; or

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

21 (c) Filed with the putative father registry pursuant to section 192.016 a notice of intent
22 to claim paternity or an acknowledgment of paternity either prior to or within [fifteen] **sixty** days

23 after the child's birth, and has filed an action to establish his paternity in a court of competent
24 jurisdiction no later than [fifteen] **sixty** days after the birth of the child; or

25 (3) The child's current adoptive parents or other legally recognized mother and father.
26 Upon request by the petitioner and within one business day of such request, the clerk of the local
27 court shall verify whether such written consents have been filed with the court.

28 4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section
29 may be executed before or after the commencement of the adoption proceedings, and shall be
30 executed in front of a judge or acknowledged before a notary public. If consent is executed in
31 front of a judge, it shall be the duty of the judge to advise the consenting birth parent of the
32 consequences of the consent. In lieu of such acknowledgment, the signature of the person giving
33 such written consent shall be witnessed by the signatures of at least two adult persons whose
34 signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be
35 the prospective adoptive parents or any attorney representing a party to the adoption proceeding.
36 The notary public or witnesses shall verify the identity of the party signing the consent.

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

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

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

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

60 (1) The birth parent understands the importance of identifying all possible fathers of the
61 child and may provide the names of all such persons; 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 9. 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 10. Where the person sought to be adopted is eighteen years of age or older, his or her
69 written consent alone to his or her adoption shall be sufficient.

70 11. 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 12. 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 11 of this section to be paid
80 by the prospective adoptive parents or the child-placing agency.

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