

1 State of Arkansas
2 93rd General Assembly
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4

A Bill

HOUSE BILL 1379

5 By: Representative Penzo
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For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING CONSENT TO
9 ADOPTION AND RELINQUISHMENT OF PARENTAL RIGHTS DURING
10 THE ADOPTION PROCESS; CONCERNING THE REPORT OF
11 EXPENDITURES RELATED TO AN ADOPTION; AND FOR OTHER
12 PURPOSES.
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Subtitle

15 TO AMEND THE LAW CONCERNING CONSENT TO
16 ADOPTION AND RELINQUISHMENT OF PARENTAL
17 RIGHTS DURING THE ADOPTION PROCESS; AND
18 CONCERNING THE REPORT OF EXPENDITURES
19 RELATED TO AN ADOPTION.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 9-9-208, concerning the execution of
26 consent to adoption, is amended to add additional subsections to read as
27 follows:

28 (d)(1) A parent whose consent to an adoption is required under this
29 subchapter is entitled to representation by an independent attorney for the
30 limited purpose of being provided with legal advice and counsel concerning
31 the:

32 (A) Execution of a consent to adoption; or

33 (B) Withdrawal of a consent to adoption.

34 (2)(A) An attorney who represents a parent in an adoption
35 proceeding shall:

36 (i) Not represent another party to the adoption



1 proceeding unless the parent knowingly and voluntarily waives his or her
 2 right to an independent attorney;

3 (ii) Certify in writing that:

4 (a) He or she has explained the effect of a
 5 consent to adoption to the parent;

6 (b) The parent appeared to voluntarily execute
 7 the consent to adoption.

8 (B) Subdivision (d)(2)(A) of this section does not apply
 9 if the petitioner in the adoption proceeding is:

10 (i) A stepparent who is the spouse of the biological
 11 parent or adoptive parent of the child to be adopted;

12 (ii) A person who is related to the child to be
 13 adopted within the second degree of consanguinity as provided in § 28-9-212;
 14 or

15 (iii) Represented by an attorney pro bono.

16 (C) A parent may waive his or her right to an independent
 17 attorney under this section by filing with the court having jurisdiction over
 18 the adoption proceeding an affidavit of waiver of representation that
 19 includes the following:

20 (i) A statement that the parent understands that he
 21 or she has been offered an independent attorney to provide limited
 22 representation to the parent concerning the consent to adoption;

23 (ii) A statement that the parent understands the
 24 effect of executing a consent to adoption;

25 (iii) A statement that the adopting parent is paying
 26 or may be willing to pay for an independent attorney to provide limited
 27 representation to the parent concerning the consent to adoption; and

28 (iv) A statement that after considering his or her
 29 right to an independent attorney, the parent is knowingly and voluntarily and
 30 without coercion or undue influence waiving his or her right to
 31 representation by an independent attorney for limited purpose of providing
 32 legal advice and counsel concerning the execution and withdrawal of a consent
 33 to adoption.

34 (e)(1) Before a parent executes a consent to adoption, a qualified
 35 interpreter or court-appointed interpreter shall be appointed to the parent
 36 for the purpose of interpreting the consent to adoption if the:

1 (A) Parent's consent to the adoption is required under
 2 this subchapter;

3 (B)(i) Parent has limited English proficiency.

4 (ii) As used in this subdivision (e), "limited
 5 English proficiency" means the inability of a person to adequately understand
 6 or communicate effectively in English in a court proceeding because the
 7 person has not developed fluency in English; and

8 (C) Petitioner in the adoption proceeding is:

9 (i) Not a stepparent who is the spouse of the
 10 biological or adoptive parent of the child to be adopted;

11 (ii) Related to the child to be adopted within the
 12 second degree of consanguinity as provided in § 28-9-212; and

13 (iii) Represented by an attorney pro bono in the
 14 adoption proceeding.

15 (2) A qualified interpreter or court-appointed interpreter
 16 appointed to a parent under this subdivision (e) shall meet the requirements
 17 of § 16-10-1101 et seq.

18 (3) The petitioner shall pay for the cost of a qualified
 19 interpreter or court-appointed interpreter appointed to a parent under this
 20 section.

21 (4) The qualified interpreter or court-appointed interpreter may
 22 interpret the written consent to adoption in person, by telephone, by video
 23 conferencing, or other comparable means.

24 (5) The written consent to adoption interpreted by a qualified
 25 interpreter or court-appointed interpreter to a parent shall:

26 (A) Identify the native language of the parent;

27 (B) Provide the name and qualifications of the qualified
 28 interpreter or court-appointed interpreter; and

29 (C) Describe the method used by the qualified interpreter
 30 or court-appointed interpreter to interpret the consent to adoption.

31 (6)(A) A parent may waive his or her right to a qualified
 32 interpreter or court-appointed interpreter under this section by filing with
 33 the court having jurisdiction over the adoption proceeding an affidavit of
 34 waiver of a qualified interpreter or court-appointed interpreter that
 35 includes the following:

36 (i) A statement identifying the native language of

1 the parent;

2 (ii) A statement that the parent understands that
 3 the petitioner is responsible for paying for the cost of a qualified
 4 interpreter or court-appointed interpreter; and

5 (iii) A statement that the parent is knowingly and
 6 voluntarily waiving his or her right to a qualified interpreter or court-
 7 appointed interpreter without coercion or undue influence because the:

8 (a) Parent is able to adequately understand or
 9 communicate effectively in English in a court proceeding because the person
 10 is fluent in English; or

11 (b) Parent's attorney is able to interpret the
 12 consent to adoption for the parent and explain the effect of a consent to
 13 adoption to the parent.

14 (B) The affidavit required under subdivision (e)(6)(A) of
 15 this section shall be in English and interpreted by a qualified interpreter
 16 or court-appointed interpreter who:

17 (i) Meets the requirements of § 16-10-1101 et seq.;
 18 and

19 (ii) Is appointed to a parent who has not waived his
 20 or her right to be appointed a qualified interpreter or court-appointed
 21 interpreter.

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 23 SECTION 2. Arkansas Code § 9-9-211, concerning reports of expenditures
 24 made by a petitioner in an adoption proceeding, is amended to add additional
 25 subsections to read as follows:

26 (d) A full accounting report required under subsection (a) of this
 27 section shall include:

28 (1) The amounts paid;

29 (2) An itemization of expenses listed in § 9-9-206(c); and

30 (3) The time period during which a reimbursement or benefit was
 31 paid or will be paid.

32 (e)(1) A parent or guardian whose consent to adoption is required
 33 under this subchapter and who receives reimbursement for an expense incurred
 34 or a fee for services rendered incidental to prenatal, delivery, and
 35 postnatal care shall file:

36 (A) A full accounting report of anything of value that has

1 been or will be received from the petitioner or a third party acting on
 2 behalf of the petitioner in connection with the adoption; and

3 (B) An affidavit verifying the full accounting report.

4 (2) A full accounting report required under subdivision (e)(1)
 5 of this section shall include:

6 (A) The amounts paid;

7 (B) An itemization of expenses listed in § 9-9-206(c); and

8 (C) The time periods during which a reimbursement or
 9 benefit was paid or will be paid.

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 11 SECTION 3. Arkansas Code § 9-9-220, concerning the relinquishment and
 12 termination of parent and child relationships in adoption proceedings, is
 13 amended to add additional subsections to read as follows:

14 (h)(1) A parent who desires to relinquish his or her parental rights
 15 under this section is entitled to representation by an independent attorney
 16 with the limited purpose of providing legal advice and counsel concerning
 17 the:

18 (A) Execution of a relinquishment of parental rights; or

19 (B) Withdrawal of a relinquishment of parental rights.

20 (2)(A) An attorney who represents a parent in an adoption
 21 proceeding shall:

22 (i) Not represent another party to the adoption
 23 proceeding unless the parent knowingly and voluntarily waives his or her
 24 right to independent counsel;

25 (ii) Certify in writing that:

26 (a) He or she has explained to the parent the
 27 effect of relinquishing parental rights;

28 (b) The parent appeared to have voluntarily
 29 executed a relinquishment of his or parental rights in writing.

30 (B) Subdivision (h)(2)(A) of this section does not apply
 31 if the petitioner in the adoption proceeding is:

32 (i) A stepparent who is the spouse of the biological
 33 or adoptive parent of the child to be adopted; or

34 (ii) A person who is related to the child to be
 35 adopted within the second degree of consanguinity as provided in § 28-9-212;
 36 or

1 (iii) Represented by an attorney pro bono.

2 (C) A parent may waive his or her right to an independent
 3 attorney in an adoption proceeding by filing an affidavit of waiver of
 4 representation with the court having jurisdiction over the adoption
 5 proceeding stating:

6 (i) The parent understands that he or she has been
 7 offered representation by an independent attorney for the limited purpose of
 8 providing legal advice and counsel concerning the relinquishment of parental
 9 rights;

10 (ii) The parent understands the effect of
 11 relinquishing parental rights;

12 (iii) The parent understands that the adopting
 13 parent is or may be willing to pay for independent counsel to provide limited
 14 representation to the parent concerning the parent's relinquishment of his or
 15 her parental rights; and

16 (iv) After consideration of his or her right to
 17 independent counsel, the parent knowingly and voluntarily and without
 18 coercion or undue influence waives his or her right to representation by an
 19 independent attorney for the limited purpose of providing legal advice and
 20 counsel concerning the relinquishment of parental rights.

21 (i)(1) A qualified interpreter or court-appointed interpreter parent
 22 shall be appointed to a parent for the purpose of interpreting a written
 23 relinquishment of parental rights if the:

24 (A) Parent may relinquish his or her parental rights under
 25 this section;

26 (B)(i) Parent has limited English proficiency.

27 (ii) As used in subdivision (i)(1)(B)(i) of this
 28 section, "limited English proficiency" means the inability of a person to
 29 adequately understand or communicate effectively in English in a court
 30 proceeding because the person has not developed fluency in English; and

31 (C) Petitioner in the adoption proceeding is:

32 (i) Not a stepparent who is the spouse of the
 33 biological parent or adoptive parent of the child to be adopted;

34 (ii) A person who is related to the child to be
 35 adopted within the second degree of consanguinity as provided in § 28-9-212;
 36 and

1 (iii) Represented by an attorney pro bono in the
2 adoption proceeding.

3 (2) A qualified interpreter or court-appointed interpreter
4 appointed to a parent under this subdivision (e) shall meet the requirements
5 of § 16-10-1101 et seq.

6 (3) The petitioner shall pay for the cost of a qualified
7 interpreter or court-appointed interpreter appointed to a parent under this
8 section.

9 (4) The qualified interpreter or court-appointed interpreter may
10 interpret the written consent to adoption in person, by telephone, by video
11 conferencing, or other comparable means.

12 (5) The written consent to adoption interpreted by a qualified
13 interpreter or court-appointed interpreter to a parent shall:

14 (A) Identify the native language of the parent;

15 (B) Provide the name and qualifications of the qualified
16 interpreter or court-appointed interpreter; and

17 (C) Describe the method used by the qualified interpreter
18 or court-appointed interpreter to interpret the consent to adoption.

19 (6)(A) A parent may waive his or her right to a qualified
20 interpreter or court-appointed interpreter under this section by filing with
21 the court having jurisdiction over the adoption proceeding an affidavit of
22 waiver of a qualified interpreter or court-appointed interpreter that
23 includes the following:

24 (i) A statement identifying the native language of
25 the parent;

26 (ii) A statement that the parent understands that
27 the petitioner is responsible for paying for the cost of a qualified
28 interpreter or court-appointed interpreter; and

29 (iii) A statement that the parent is knowingly and
30 voluntarily waiving his or her right to be appointed a qualified interpreter
31 or court-appointed interpreter without coercion or undue influence because
32 the:

33 (a) Parent is able to adequately understand or
34 communicate effectively in English in a court proceeding because the person
35 is fluent in English; or

36 (b) Parent's attorney is able to interpret the

1 written relinquishment of parental rights and explain the effect of a
2 relinquishment of parental rights to the parent.

3 (B) The affidavit required under subdivision (i)(6)(A) of
4 this section shall be in English and shall be interpreted by a qualified
5 interpreter or court-appointed interpreter who:

6 (i) Meets the requirements of § 16-10-1101 et seq.;
7 and

8 (ii) Is appointed to a parent who has not waived his
9 or her right to be appointed a qualified interpreter or court-appointed
10 interpreter.

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