

SECOND REGULAR SESSION

SENATE BILL NO. 888

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

Read 1st time January 15, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4846S.02I

AN ACT

To repeal sections 211.447, 453.014, 453.030, 453.040, and 453.070, RSMo, and to enact in lieu thereof five new sections relating to the parent-child relationship.

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

Section A. Sections 211.447, 453.014, 453.030, 453.040, and 453.070, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 211.447, 453.014, 453.030, 453.040, and 453.070, to read as follows:

211.447. 1. Any information that could justify the filing of a petition to terminate parental rights may be referred to the juvenile officer by any person. The juvenile officer shall make a preliminary inquiry and if it appears that the information could justify the filing of a petition, the juvenile officer may take further action, including filing a petition. If it does not appear to the juvenile officer that a petition should be filed, such officer shall so notify the informant in writing within thirty days of the referral. Such notification shall include the reasons that the petition will not be filed.

2. Except as provided for in subsection 4 of this section, a petition to terminate the parental rights of the child's parent or parents shall be filed by the juvenile officer or the division, or if such a petition has been filed by another party, the juvenile officer or the division shall seek to be joined as a party to the petition, when:

(1) Information available to the juvenile officer or the division establishes that the child has been in foster care for at least fifteen of the most recent twenty-two months; or

(2) A court of competent jurisdiction has determined the child to be an abandoned [infant] **child**. For purposes of this subdivision, [an "infant"] a

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

19 **"child"** means any child [one year] **three years** of age or under at the time of
20 filing of the petition. The court may find that [an infant] **a child** has been
21 abandoned if:

22 (a) The parent has left the child under circumstances that the identity of
23 the child was unknown and could not be ascertained, despite diligent searching,
24 and the parent has not come forward to claim the child; or

25 (b) The parent has, [without good cause, left the child without any
26 provision for parental support and without making arrangements to visit or
27 communicate with the child, although able to do so] **for a period of sixty days,**
28 **immediately prior to the filing of the petition for termination of**
29 **parental rights, willfully, substantially, and continuously neglected to**
30 **provide the child with necessary care and protection; or**

31 (c) The parent has voluntarily relinquished a child under section 210.950;
32 or

33 (3) A court of competent jurisdiction has determined that the parent has:

34 (a) Committed murder of another child of the parent; or

35 (b) Committed voluntary manslaughter of another child of the parent; or

36 (c) Aided or abetted, attempted, conspired or solicited to commit such a
37 murder or voluntary manslaughter; or

38 (d) Committed a felony assault that resulted in serious bodily injury to
39 the child or to another child of the parent; or

40 (4) The parent has been found guilty of or pled guilty to a felony violation
41 of chapter 566, **567**, or **573**, or **section 568.030, 568.032, 568.045, 568.050, or**
42 **568.175** when the child or any child [in the family] was a victim, or a violation
43 of section 568.020 or 568.065 [when the child or any child in the family was a
44 victim]. As used in this subdivision, a "child" means any person who was under
45 eighteen years of age at the time of the [crime and who resided with such parent
46 or was related within the third degree of consanguinity or affinity to such parent]
47 **offense.**

48 3. A termination of parental rights petition shall be filed by the juvenile
49 officer or the division, or if such a petition has been filed by another party, the
50 juvenile officer or the division shall seek to be joined as a party to the petition,
51 within sixty days of the judicial determinations required in subsection 2 of this
52 section, except as provided in subsection 4 of this section. Failure to comply with
53 this requirement shall not deprive the court of jurisdiction to adjudicate a
54 petition for termination of parental rights which is filed outside of sixty days.

55 4. If grounds exist for termination of parental rights pursuant to
56 subsection 2 of this section, the juvenile officer or the division may, but is not
57 required to, file a petition to terminate the parental rights of the child's parent
58 or parents if:

59 (1) The child is being cared for by a relative; or

60 (2) There exists a compelling reason for determining that filing such a
61 petition would not be in the best interest of the child, as documented in the
62 permanency plan which shall be made available for court review; or

63 (3) The family of the child has not been provided such services as provided
64 for in section 211.183.

65 5. The juvenile officer or the division may file a petition to terminate the
66 parental rights of the child's parent when it appears that one or more of the
67 following grounds for termination exist:

68 (1) The child has been abandoned. For purposes of this subdivision a
69 "child" means any child over [one year] **three years** of age at the time of filing
70 of the petition. The court shall find that the child has been abandoned if, for a
71 period of six months or longer:

72 (a) The parent has left the child under such circumstances that the
73 identity of the child was unknown and could not be ascertained, despite diligent
74 searching, and the parent has not come forward to claim the child; or

75 (b) The parent has, [without good cause, left the child without any
76 provision for parental support and without making arrangements to visit or
77 communicate with the child, although able to do so] **for a period of six**
78 **months, immediately prior to the filing of the petition for termination**
79 **of parental rights, willfully, substantially, and continuously neglected**
80 **to provide the child with necessary care and protection;**

81 (2) The child has been abused or neglected. In determining whether to
82 terminate parental rights pursuant to this subdivision, the court shall consider
83 and make findings on the following conditions or acts of the parent:

84 (a) A mental condition which is shown by competent evidence either to be
85 permanent or such that there is no reasonable likelihood that the condition can
86 be reversed and which renders the parent unable to knowingly provide the child
87 the necessary care, custody and control;

88 (b) Chemical dependency which prevents the parent from consistently
89 providing the necessary care, custody and control of the child and which cannot
90 be treated so as to enable the parent to consistently provide such care, custody

91 and control;

92 (c) A severe act or recurrent acts of physical, emotional or sexual abuse
93 toward the child or any child in the family by the parent, including an act of
94 incest, or by another under circumstances that indicate that the parent knew or
95 should have known that such acts were being committed toward the child or any
96 child in the family; or

97 (d) Repeated or continuous failure by the parent, although physically or
98 financially able, to provide the child with adequate food, clothing, shelter, or
99 education as defined by law, or other care and control necessary for the child's
100 physical, mental, or emotional health and development.

101 Nothing in this subdivision shall be construed to permit discrimination on the
102 basis of disability or disease;

103 (3) The child has been under the jurisdiction of the juvenile court for a
104 period of one year, and the court finds that the conditions which led to the
105 assumption of jurisdiction still persist, or conditions of a potentially harmful
106 nature continue to exist, that there is little likelihood that those conditions will
107 be remedied at an early date so that the child can be returned to the parent in
108 the near future, or the continuation of the parent-child relationship greatly
109 diminishes the child's prospects for early integration into a stable and permanent
110 home. In determining whether to terminate parental rights under this
111 subdivision, the court shall consider and make findings on the following:

112 (a) The terms of a social service plan entered into by the parent and the
113 division and the extent to which the parties have made progress in complying
114 with those terms;

115 (b) The success or failure of the efforts of the juvenile officer, the division
116 or other agency to aid the parent on a continuing basis in adjusting his
117 circumstances or conduct to provide a proper home for the child;

118 (c) A mental condition which is shown by competent evidence either to be
119 permanent or such that there is no reasonable likelihood that the condition can
120 be reversed and which renders the parent unable to knowingly provide the child
121 the necessary care, custody and control;

122 (d) Chemical dependency which prevents the parent from consistently
123 providing the necessary care, custody and control over the child and which cannot
124 be treated so as to enable the parent to consistently provide such care, custody
125 and control; or

126 (4) The child was conceived and born as a result of an act of forcible rape

127 or rape in the first degree. When the biological father has pled guilty to, or is
128 convicted of, the forcible rape or rape in the first degree of the birth mother, such
129 a plea or conviction shall be conclusive evidence supporting the termination of the
130 biological father's parental rights; or

131 (5) (a) The parent is unfit to be a party to the parent and child
132 relationship because of a consistent pattern of committing a specific abuse
133 including, but not limited to, specific conditions directly relating to the parent
134 and child relationship which are determined by the court to be of a duration or
135 nature that renders the parent unable for the reasonably foreseeable future to
136 care appropriately for the ongoing physical, mental, or emotional needs of the
137 child.

138 (b) It is presumed that a parent is unfit to be a party to the parent and
139 child relationship upon a showing that:

140 a. Within a three-year period immediately prior to the termination
141 adjudication, the parent's parental rights to one or more other children were
142 involuntarily terminated pursuant to subsection 2 or 4 of this section or
143 subdivision (1), (2), or (3) of this subsection or similar laws of other states;

144 b. If the parent is the birth mother and within eight hours after the
145 child's birth, the child's birth mother tested positive and over eight-hundredths
146 of one percent blood alcohol content pursuant to testing under section 577.020 for
147 alcohol, or tested positive for cocaine, heroin, methamphetamine, a controlled
148 substance as defined in section 195.010, or a prescription drug as defined in
149 section 196.973, excepting those controlled substances or prescription drugs
150 present in the mother's body as a result of medical treatment administered to the
151 mother, and the birth mother is the biological mother of at least one other child
152 who was adjudicated an abused or neglected minor by the mother or the mother
153 has previously failed to complete recommended treatment services by the
154 children's division through a family-centered services case;

155 c. If the parent is the birth mother and at the time of the child's birth or
156 within eight hours after a child's birth the child tested positive for alcohol,
157 cocaine, heroin, methamphetamine, a controlled substance as defined in section
158 195.010, or a prescription drug as defined in section 196.973, excepting those
159 controlled substances or prescription drugs present in the mother's body as a
160 result of medical treatment administered to the mother, and the birth mother is
161 the biological mother of at least one other child who was adjudicated an abused
162 or neglected minor by the mother or the mother has previously failed to complete

163 recommended treatment services by the children's division through a
164 family-centered services case; [or]

165 d. Within a three-year period immediately prior to the termination
166 adjudication, the parent has pled guilty to or has been convicted of a felony
167 involving the possession, distribution, or manufacture of cocaine, heroin, or
168 methamphetamine, and the parent is the biological parent of at least one other
169 child who was adjudicated an abused or neglected minor by such parent or such
170 parent has previously failed to complete recommended treatment services by the
171 children's division through a family-centered services case; **or**

172 **e. For at least fifteen of the twenty-two months prior to the filing**
173 **of the petition, the child has been under the jurisdiction of the juvenile**
174 **court.**

175 6. The juvenile court may terminate the rights of a parent to a child upon
176 a petition filed by the juvenile officer or the division, or in adoption cases, by a
177 prospective parent, if the court finds that the termination is in the best interest
178 of the child and when it appears by clear, cogent and convincing evidence that
179 grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

180 7. When considering whether to terminate the parent-child relationship
181 pursuant to subsection 2 or 4 of this section or subdivision (1), (2), or (3) of
182 subsection 5 of this section, the court shall evaluate and make findings on the
183 following factors, when appropriate and applicable to the case:

184 (1) The emotional ties to the birth parent;

185 (2) The extent to which the parent has maintained regular visitation or
186 other contact with the child;

187 (3) The extent of payment by the parent for the cost of care and
188 maintenance of the child when financially able to do so including the time that
189 the child is in the custody of the division or other child-placing agency;

190 (4) Whether additional services would be likely to bring about lasting
191 parental adjustment enabling a return of the child to the parent within an
192 ascertainable period of time;

193 (5) The parent's disinterest in or lack of commitment to the child;

194 (6) The conviction of the parent of a felony offense that the court finds is
195 of such a nature that the child will be deprived of a stable home for a period of
196 years; provided, however, that incarceration in and of itself shall not be grounds
197 for termination of parental rights;

198 (7) Deliberate acts of the parent or acts of another of which the parent

199 knew or should have known that subjects the child to a substantial risk of
200 physical or mental harm.

201 8. The court may attach little or no weight to infrequent visitations,
202 communications, or contributions. It is irrelevant in a termination proceeding
203 that the maintenance of the parent-child relationship may serve as an
204 inducement for the parent's rehabilitation.

205 9. In actions for adoption pursuant to chapter 453, the court may hear and
206 determine the issues raised in a petition for adoption containing a prayer for
207 termination of parental rights filed with the same effect as a petition permitted
208 pursuant to subsection 2, 4, or 5 of this section.

209 10. The disability or disease of a parent shall not constitute a basis for a
210 determination that a child is a child in need of care, for the removal of custody
211 of a child from the parent, or for the termination of parental rights without a
212 specific showing that there is a causal relation between the disability or disease
213 and harm to the child.

214 11. A court of competent jurisdiction may terminate the parental rights
215 of a biological father of a child if he is an alleged perpetrator of forcible rape
216 under section 566.030 as it existed prior to August 28, 2013, or rape in the first
217 degree under section 566.030 that resulted in the conception and birth of the
218 child. The biological mother who is the victim of the forcible rape or rape in the
219 first degree or, if she is a minor, someone on her behalf may file a petition to
220 terminate the parental rights of the biological father. The court may terminate
221 the parental rights of the biological father if the court finds that by:

222 (1) Clear, cogent, and convincing evidence the biological father committed
223 the act of forcible rape or rape in the first degree against the biological mother;

224 (2) Clear, cogent, and convincing evidence the child was conceived as a
225 result of that act of forcible rape or rape in the first degree; and

226 (3) The preponderance of the evidence the termination of the parental
227 rights of the biological father is in the best interests of the child.

228 12. In any action to terminate the parental rights of the biological father
229 under subsection 11 of this section or subdivision (5) of subsection 5 of this
230 section, a court of competent jurisdiction may order that the mother and the child
231 conceived and born as a result of forcible rape or rape in the first degree are
232 entitled to obtain from the biological father certain payments, support, beneficiary
233 designations, or other financial benefits. The court shall issue such order only
234 if the mother gives her consent; provided, that the court shall first inform the

235 mother that such order may require or obligate the mother to have continuous or
236 future communication and contact with the biological father. Such order shall be
237 issued without the biological father being entitled to or granted any custody,
238 guardianship, visitation privileges, or other parent-child relationship, and may
239 include any or all of the following:

240 (1) Payment for the reasonable expenses of the mother or the child, or
241 both, related to pregnancy, labor, delivery, postpartum care, newborn care, or
242 early childhood care;

243 (2) Child support under this chapter or chapter 210, 452, or 454;

244 (3) All rights of the child to inherit under the probate code, as defined in
245 section 472.010; provided that, for purposes of intestate succession, the biological
246 father or his kindred shall have no right to inherit from or through the child;

247 (4) The designation of the child as the beneficiary of a life or accidental
248 death insurance policy, annuity, contract, plan, or other product sold or issued by
249 a life insurance company; or

250 (5) Any other payments, support, beneficiary designations, or financial
251 benefits that are in the best interests of the child or for the reasonable expenses
252 of the mother, or both.

253 If the mother declines to seek a court order for child support under this
254 subsection, no state agency shall require the mother to do so in order to receive
255 public assistance benefits for herself or the child, including, but not limited to,
256 benefits for temporary assistance for needy families, supplemental nutrition
257 assistance program, or MO HealthNet. The court order terminating the parental
258 rights of the biological father under subdivision (5) of subsection 5 of this section
259 or subsection 11 of this section shall serve as a sufficient basis for a good cause
260 or other exemptions under 42 U.S.C. Section 654(29) and the state agency shall
261 not require the mother or the child to otherwise provide the identity, location,
262 income, or assets of the biological father or have contact or communicate with the
263 biological father. However, nothing in this subsection shall prohibit a state
264 agency from requesting that the mother assign any child support rights she
265 receives under this subsection to the state as a condition of receipt of public
266 assistance benefits under applicable federal and state law.

453.014. 1. The following persons may place a minor for adoption:

2 (1) The children's division of the department of social services;

3 (2) A child placing agency licensed pursuant to sections 210.481 to
4 210.536;

5 (3) The child's parents, without the direct or indirect assistance of an
6 intermediary, in the home of a relative of the child within the third degree;

7 (4) An intermediary, which shall include an attorney licensed pursuant
8 to chapter 484; a physician licensed pursuant to chapter 334; or a clergyman of
9 the parents.

10 2. All persons granted the authority to place a minor child for adoption
11 as designated in subdivision (1), (2) or (4) of subsection 1 of this section shall
12 comply with the rules and regulations promulgated by the **children's division**
13 **of the** department of social services [and the department of health and senior
14 services] for such placement.

15 3. The children's division of the department of social services [and the
16 department of health and senior services] shall promulgate rules and regulations
17 regarding the placement of a minor for adoption.

18 4. No rule or portion of a rule promulgated under the authority of this
19 section shall become effective unless it has been promulgated pursuant to the
20 provisions of section 536.024.

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

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

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

16 (1) The mother of the child;

17 (2) Any man who:

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

20 (b) Has filed an action to establish his paternity in a court of competent

21 jurisdiction no later than fifteen days after the birth of the child and has served
22 a copy of the petition on the mother in accordance with section 506.100; or

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

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

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

33 4. The written consent required in subdivisions (2) and (3) of subsection
34 3 of this section may be executed before or after the birth of the child or before
35 or after the commencement of the adoption proceedings, and shall be executed in
36 front of a judge or acknowledged before a notary public. If consent is executed in
37 front of a judge, it shall be the duty of the judge to advise the consenting birth
38 parent of the consequences of the consent. In lieu of such acknowledgment, the
39 signature of the person giving such written consent shall be witnessed by the
40 signatures of at least two adult persons whose signatures and addresses shall be
41 plainly written thereon. The two adult witnesses shall not be the prospective
42 adoptive parents or any attorney representing a party to the adoption proceeding
43 other than the attorney representing the party signing the consent. The notary
44 public or witnesses shall verify the identity of the party signing the
45 consent. Notwithstanding any other provision of law to the contrary, a properly
46 executed written consent under this subsection shall be considered irrevocable.

47 5. The written consent required in subdivision (1) of subsection 3 of this
48 section by the birth mother shall not be executed anytime before the child is
49 forty-eight hours old. Such written consent shall be executed in front of a judge
50 or acknowledged before a notary public. If consent is executed in front of a judge,
51 it shall be the duty of the judge to advise the consenting party of the
52 consequences of the consent. In lieu of acknowledgment before a notary public,
53 the signature of the person giving such written consent shall be witnessed by the
54 signatures of at least two adult persons who are present at the execution whose
55 signatures and addresses shall be plainly written thereon and who determine and
56 certify that the consent is knowingly and freely given. The two adult witnesses

57 shall not be the prospective adoptive parents or any attorney representing a party
58 to the adoption proceeding other than the attorney representing the party signing
59 the consent. The notary public or witnesses shall verify the identity of the party
60 signing the consent.

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

67 7. A consent form shall be developed through rules and regulations
68 promulgated by the **children's division of the** department of social services. No
69 rule or portion of a rule promulgated under the authority of this section shall
70 become effective unless it has been promulgated pursuant to the provisions of
71 chapter 536. If a written consent is obtained after August 28, 1997, but prior to
72 the development of a consent form by the department and the written consent
73 complies with the provisions of subsection 8 of this section, such written consent
74 shall be deemed valid.

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

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

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

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

85 10. Where the person sought to be adopted is eighteen years of age or
86 older, his or her written consent alone to his or her adoption shall be sufficient.

87 11. A birth parent, including a birth parent less than eighteen years of
88 age, shall have the right to legal representation [and payment of any reasonable
89 legal fees incurred throughout the adoption process. In addition, the court may
90 appoint an attorney to represent a birth parent if:

91 (1) A birth parent requests representation;

92 (2) The court finds that hiring an attorney to represent such birth parent

93 would cause a financial hardship for the birth parent; and

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

95 12. [Except in cases where the court determines that the adoptive parents
96 are unable to pay reasonable attorney fees and appoints pro bono counsel for the
97 birth parents, the court shall order the costs of the attorney fees incurred
98 pursuant to subsection 11 of this section to be paid by the prospective adoptive
99 parents or the child-placing agency.

100 13.] The court shall receive and acknowledge a written consent to
101 adoption properly executed by a birth parent under this section when such
102 consent is in the best interests of the child.

453.040. The consent to the adoption of a child is not required of:

2 (1) A parent whose rights with reference to the child have been
3 terminated pursuant to law, including section 211.444 or section 211.447 or other
4 similar laws in other states;

5 (2) A parent of a child who has legally consented to a future adoption of
6 the child;

7 (3) A parent whose identity is unknown and cannot be ascertained at the
8 time of the filing of the petition;

9 (4) A man who has not been established to be the father and who is not
10 presumed by law to be the father, and who, after the conception of the child,
11 executes a verified statement denying paternity and disclaiming any interest in
12 the child and acknowledging that this statement is irrevocable when executed and
13 follows the consent as set forth in section 453.030;

14 (5) A parent or other person who has not executed a consent and who,
15 after proper service of process, fails to file an answer or make an appearance in
16 a proceeding for adoption or for termination of parental rights at the time such
17 cause is heard;

18 (6) A parent who has a mental condition which is shown by competent
19 evidence either to be permanent or such that there is no reasonable likelihood
20 that the condition can be reversed and which renders the parent unable to
21 knowingly provide the child the necessary care, custody and control;

22 (7) A parent who has for a period of at least six months, for a child [one
23 year] **three years** of age or older, or at least sixty days, for a child under [one
24 year] **three years** of age, immediately prior to the filing of the petition for
25 adoption, [willfully abandoned the child or, for a period of at least six months
26 immediately prior to the filing of the petition for adoption,] willfully,

27 substantially and continuously neglected to provide [him] **the child** with
28 necessary care and protection;

29 (8) A parent whose rights to the child may be terminated for any of the
30 grounds set forth in section 211.447 and whose rights have been terminated after
31 hearing and proof of such grounds as required by sections 211.442 to
32 211.487. Such petition for termination may be filed as a count in an adoption
33 petition.

453.070. 1. Except as provided in subsection 5 of this section, no decree
2 for the adoption of a child under eighteen years of age shall be entered for the
3 petitioner or petitioners in such adoption as ordered by the juvenile court having
4 jurisdiction, until a full investigation, which includes an assessment of the
5 adoptive parents, an appropriate postplacement assessment and a summary of
6 written reports as provided for in section 453.026, and any other pertinent
7 information relevant to whether the child is suitable for adoption by the
8 petitioner and whether the petitioner is suitable as a parent for the child, has
9 been made. The report shall also include a statement to the effect that the child
10 has been considered as a potential subsidy recipient.

11 2. Such investigation shall be made, as directed by the court having
12 jurisdiction, either by the children's division of the department of social services,
13 a juvenile court officer, a licensed child-placement agency, a social worker, a
14 professional counselor, or a psychologist licensed under chapter 337 and
15 associated with a licensed child-placement agency, or other suitable person
16 appointed by the court. The results of such investigation shall be embodied in a
17 written report that shall be submitted to the court within ninety days of the
18 request for the investigation.

19 3. The children's division shall develop rules and regulations regarding
20 the content of the assessment of the petitioner or petitioners. The content of the
21 assessment shall include but not be limited to a report on the condition of the
22 petitioner's home and information on the petitioner's education, financial,
23 marital, medical and psychological status and criminal background check. If an
24 assessment is conducted after August 28, 1997, but prior to the promulgation of
25 rules and regulations by the [department] **children's division** concerning the
26 contents of such assessment, any discrepancy between the contents of the actual
27 assessment and the contents of the assessment required by [department]
28 **children's division** rule shall not be used as the sole basis for invalidating an
29 adoption. No rule or portion of a rule promulgated pursuant to the authority of

30 this section shall become effective unless it has been promulgated pursuant to the
31 provisions of chapter 536.

32 4. The assessment of petitioner or petitioners shall be submitted to the
33 petitioner and to the court prior to the scheduled hearing of the adoptive petition.

34 5. In cases where the adoption or custody involves a child under eighteen
35 years of age that is the natural child of one of the petitioners and where all of the
36 parents required by this chapter to give consent to the adoption or transfer of
37 custody have given such consent, the juvenile court may waive the investigation
38 and report, except the criminal background check, and enter the decree for the
39 adoption or order the transfer of custody without such investigation and report.

40 6. In the case of an investigation and report made by the children's
41 division by order of the court, the court may order the payment of a reasonable
42 fee by the petitioner to cover the costs of the investigation and report.

43 7. Any adult person or persons over the age of eighteen who, as foster
44 parent or parents, have cared for a foster child continuously for a period of nine
45 months or more and bonding has occurred as evidenced by the positive emotional
46 and physical interaction between the foster parent and child, may apply to such
47 authorized agency for the placement of such child with them for the purpose of
48 adoption if the child is eligible for adoption. The agency and court shall give
49 preference and first consideration for adoptive placements to foster
50 parents. However, the final determination of the propriety of the adoption of such
51 foster child shall be within the sole discretion of the court.

52 8. (1) Nothing in this section shall be construed to permit discrimination
53 on the basis of disability or disease of a prospective adoptive parent.

54 (2) The disability or disease of a prospective adoptive parent shall not
55 constitute a basis for a determination that the petitioner is unfit or not suitable
56 to be an adoptive parent without a specific showing that there is a causal
57 relationship between the disability or disease and a substantial and significant
58 risk of harm to a child.

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