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HOUSE BILL 171

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Jane E. Powdrell-Culbert

AN ACT

RELATING TO FAMILIES; ENACTING THE BLIND PARENTS' RIGHTS ACT TO SPECIFY THE RIGHTS OF BLIND PARENTS IN MATTERS RELATING TO THE ACCESS TO OR THE CARE, CUSTODY OR CONTROL OF CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Blind Parents' Rights Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Blind Parents' Rights Act:

A. "blind parent" means a parent who:

(1) has a best corrected visual acuity that is worse than 20/100 in the better eye or a visual field limitation such that the widest diameter of the visual field in the better eye is twenty degrees or less;

(2) has a degenerative condition that

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1 reasonably can be expected to result in a best corrected visual
2 acuity that is worse than 20/100 in the better eye, or a visual
3 field limitation such that the widest diameter of the visual
4 field in the better eye is twenty degrees or less; or

5 (3) is regarded as having a best corrected
6 visual acuity that is worse than 20/100 in the better eye or a
7 visual field limitation such that the widest diameter of the
8 visual field in the better eye is twenty degrees or less;

9 B. "child" means an individual who is under
10 eighteen years of age and who, by reason of minority, is
11 legally subject to parental control, guardianship, foster care
12 or similar control;

13 C. "foster parent" means a person licensed or
14 certified by the children, youth and families department or a
15 child placement agency to provide care for children in the
16 custody of the children, youth and families department or child
17 placement agency;

18 D. "guardian" means a person authorized to provide
19 care, custody or control of a child by:

20 (1) court or Indian tribal authority
21 appointment; or

22 (2) parental appointment as permitted by law;

23 E. "parent" means a biological or adoptive parent
24 of a child whose parental rights have not been terminated; and

25 F. "parental right" means a right to:

1 (1) adopt a child, through a state agency or
2 through a private adoption service;

3 (2) custody of a child;

4 (3) visitation of a child;

5 (4) serve as guardian of a child; or

6 (5) serve as a foster parent.

7 SECTION 3. [NEW MATERIAL] BLIND PARENTS--PARENTAL
8 RIGHTS.--

9 A. A blind parent's blindness shall not serve as a
10 basis for denial or restriction of a parental right.

11 B. Where a blind parent's blindness is alleged to
12 have a detrimental impact on the physical, mental or emotional
13 welfare of a child, or where a blind parent's blindness is in
14 any way a factor when determining a parental right, the party
15 making the allegation bears the burden of proving the
16 allegation by clear and convincing evidence. If this burden is
17 met, the blind parent shall have the opportunity to rebut the
18 allegation by demonstrating how the receipt of supportive
19 parenting services can alleviate or mitigate any detrimental
20 impact that the blind parent's blindness may have on a child.

21 C. If a court, state agency or other entity with
22 jurisdiction limits or denies a blind parent's parental right,
23 the court, state agency or other entity with jurisdiction shall
24 make specific written findings setting forth the clear and
25 convincing evidence for the determination and why the provision

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1 of supportive parenting services is not a reasonable
2 accommodation that would serve to make that determination
3 unnecessary. The court, state agency or other entity with
4 jurisdiction shall also make a finding of fact as to the
5 prospects for supportive parenting services to allow the blind
6 parent to adequately parent the child in the future.

7 D. Nothing in the Blind Parents' Rights Act shall
8 in any way be construed to limit or restrict any other right or
9 remedy that a blind parent has in any administrative or court
10 proceeding to oppose the termination or limitation of parental
11 rights.

12 E. A blind parent who has been subject to a
13 violation of the Blind Parents' Rights Act has the right to
14 seek and recover reasonable attorney fees and costs, including
15 fees and costs arising in a domestic relations matter in which
16 a spouse or parent has alleged that a blind parent should be
17 denied any parental right on the basis of the blind parent's
18 blindness.