

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 290

97TH GENERAL ASSEMBLY

1088H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 453.070 and 453.080, RSMo, and to enact in lieu thereof two new sections relating to adoption investigations.

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

Section A. Sections 453.070 and 453.080, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 453.070 and 453.080, to read as follows:

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

2. Such investigation shall be made, as directed by the court having jurisdiction, either by the division of family services of the [state] department of social services, a juvenile court officer, a licensed child-placement agency, a social worker [licensed pursuant to chapter 337], **a professional counselor, or a psychologist licensed under chapter 337 and associated with a licensed child-placement agency**, or other suitable person appointed by the court. The results of such investigation shall be embodied in a written report that shall be submitted to the court within ninety days of the request for the investigation.

3. The department of social services, division of family services, shall develop rules and regulations regarding the content of the assessment of the petitioner or petitioners. The content

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.

18 of the assessment shall include but not be limited to, a report on the condition of the petitioner's  
19 home and information on the petitioner's education, financial, marital, medical and psychological  
20 status and criminal background check. If an assessment is conducted after August 28, 1997, but  
21 prior to the promulgation of rules and regulations by the department concerning the contents of  
22 such assessment, any discrepancy between the contents of the actual assessment and the contents  
23 of the assessment required by department rule shall not be used as the sole basis for invalidating  
24 an adoption. No rule or portion of a rule promulgated pursuant to the authority of this section  
25 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536.

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

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

34 6. In the case of an investigation and report made by the division of family services by  
35 order of the court, the court may order the payment of a reasonable fee by the petitioner to cover  
36 the costs of the investigation and report.

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

45 8. (1) Nothing in this section shall be construed to permit discrimination on the basis  
46 of disability or disease of a prospective adoptive parent.

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

453.080. 1. The court shall conduct a hearing to determine whether the adoption shall  
2 be finalized. During such hearing, the court shall ascertain whether:

- 3 (1) The person sought to be adopted, if a child, has been in the lawful and actual custody  
4 of the petitioner for a period of at least six months prior to entry of the adoption decree; except  
5 that the six-month period may be waived if the person sought to be adopted is a child who is  
6 under the prior and continuing jurisdiction of a court pursuant to chapter 211 and the person  
7 desiring to adopt the child is the child's current foster parent. "Lawful and actual custody" shall  
8 include a transfer of custody pursuant to the laws of this state, another state, a territory of the  
9 United States, or another country;
- 10 (2) The court has received and reviewed:
- 11 (a) A postplacement assessment on the monthly contacts with the adoptive family  
12 pursuant to section 453.077, except for good cause shown in the case of a child adopted from a  
13 foreign country;
- 14 (b) **An investigation report under section 453.070, if any;**
- 15 (c) **An investigation and social study under section 211.455, if any;**
- 16 (3) The court has received and reviewed an updated financial affidavit;
- 17 (4) The court has received the recommendations of the guardian ad litem and has  
18 received and reviewed the recommendations of the person placing the child, the person making  
19 the assessment and the person making the postplacement assessment;
- 20 (5) There is compliance with the uniform child custody jurisdiction act, sections 452.440  
21 to 452.550;
- 22 (6) There is compliance with the Indian Child Welfare Act, if applicable;
- 23 (7) There is compliance with the Interstate Compact on the Placement of Children  
24 pursuant to section 210.620; and
- 25 (8) It is fit and proper that such adoption should be made.
- 26 2. If a petition for adoption has been filed pursuant to section 453.010 and a transfer of  
27 custody has occurred pursuant to section 453.110, the court may authorize the filing for  
28 finalization in another state if the adoptive parents are domiciled in that state.
- 29 3. If the court determines the adoption should be finalized, a decree shall be issued  
30 setting forth the facts and ordering that from the date of the decree the adoptee shall be for all  
31 legal intents and purposes the child of the petitioner or petitioners. The court may decree that  
32 the name of the person sought to be adopted be changed, according to the prayer of the petition.
- 33 4. Before the completion of an adoption, the exchange of information among the parties  
34 shall be at the discretion of the parties. Upon completion of an adoption, further contact among  
35 the parties shall be at the discretion of the adoptive parents. The court shall not have jurisdiction  
36 to deny continuing contact between the adopted person and the birth parent, or an adoptive parent  
37 and a birth parent. Additionally, the court shall not have jurisdiction to deny an exchange of  
38 identifying information between an adoptive parent and a birth parent.

39           **5. By January 1, 2014, the Missouri supreme court shall develop a standardized**  
40 **form to be used in all adoption cases which includes a checklist to verify all of the**  
41 **documents and procedures required under this section have been submitted, followed, and**  
42 **reviewed by the judge prior to entering a final order. Such form shall include, but not be**  
43 **limited to, attachment of any written reports or assessments required under this section**  
44 **and the signature of the judge attesting to the submission and review of such form and**  
45 **attachments prior to entering a final order. Such form and attachments shall be included**  
46 **as part of the adoption record.**

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