

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1137

96TH GENERAL ASSEMBLY

4211L.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 211.444, 453.065, and 453.080, RSMo, and to enact in lieu thereof six new sections relating to adoption.

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

Section A. Sections 211.444, 453.065, and 453.080, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 193.132, 211.444, 453.065, 453.080, 453.510, and 453.515, to read as follows:

193.132. 1. As used in this section, the following terms mean:

(1) "Adoptee", the person who is the subject of a birth certificate;

(2) "Birth parent", the person who is the biological parent of an adoptee and who is named as the parent on the original birth certificate of the adoptee;

(3) "Contact preference form", the form developed by the state registrar under subsection 4 of this section;

(4) "Medical history form", the form developed by the state registrar under subsection 3 of this section. At a minimum, such form shall include medical history information regarding:

(a) Congenital or genetic history;

(b) Psychosocial history;

(c) Chronic diseases;

(d) Infectious diseases;

(e) Allergies;

(f) Pregnancy and birth history; and

(g) Deaths of birth family members that may affect the medical history.

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.

17 **2. Notwithstanding any other provision of law, the state registrar shall develop and**
18 **provide each birth parent with a contact preference form and a medical history form as**
19 **described in this section.**

20 **3. A birth parent may use a medical history form to describe his or her medical**
21 **history.**

22 **4. The birth parent may state a preference regarding contact by an adoptee on a**
23 **contact preference form. The form shall contain the following statements from which the**
24 **birth parent may choose only one:**

25 **(1) "I would like to be contacted. I have completed this contact preference form**
26 **and a medical history form and am filing both forms with the State Registrar.";**

27 **(2) "I would prefer to be contacted only through an intermediary. I have completed**
28 **this contact preference form and a medical history form and am filing both with the State**
29 **Registrar."; or**

30 **(3) "Do not contact me. I may change this preference by filling out another contact**
31 **preference form. I have completed this contact preference form and a medical history**
32 **form and am filing both with the State Registrar.".**

33 **5. Upon receipt of a completed contact preference form and a medical history form,**
34 **the state registrar shall attach the completed forms to the original birth certificate of the**
35 **adoptee. A completed contact preference form and medical history form shall have the**
36 **same level of confidentiality as the original birth certificate.**

37 **6. The state registrar shall develop by rule the forms required by this section and**
38 **may adopt other rules for the administration of this section. Any rule or portion of a rule,**
39 **as that term is defined in section 536.010, that is created under the authority delegated in**
40 **this section shall become effective only if it complies with and is subject to all of the**
41 **provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536,**
42 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
43 **chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are**
44 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
45 **proposed or adopted after August 28, 2012, shall be invalid and void.**

46 **7. Nothing in this section shall be construed as violating the provisions of section**
47 **453.121.**

211.444. 1. The juvenile court may, upon petition of the juvenile officer or a
2 child-placing agency licensed under sections 210.481 to 210.536 in conjunction with a placement
3 with such agency under subsection 6 of section 453.010, **the children's division**, or the court
4 before which a petition for adoption has been filed pursuant to the provisions of chapter 453,
5 terminate the rights of a parent **or approve the consent to adoption or waiver of consent to**

6 **adoption by a parent, as defined in section 211.442, or of a named father** to a child,
7 **including a child who is a ward of the court**, if the court finds that such termination **or**
8 **consent to adoption or waiver of consent to adoption** is in the best interests of the child and
9 the parent, **as defined in section 211.442**, has consented in writing to the termination of his or
10 her parental rights **or consented or waived consent to the adoption**.

11 2. The written consent required by subsection 1 of this section may be executed before
12 or after the institution of the proceedings and shall be acknowledged before a notary public. In
13 lieu of such acknowledgment, the signature of the person giving the written consent shall be
14 witnessed by at least two adult persons who are present at the execution whose signatures and
15 addresses shall be plainly written thereon and who determine and certify that the consent is
16 knowingly and freely given. The two adult witnesses shall not be the prospective parents. The
17 notary public or witnesses shall verify the identity of the party signing the consent.

18 3. The written consent required by subsection 1 of this section shall be valid and
19 effective only after the child is at least forty-eight hours old and if it complies with the other
20 requirements of section 453.030.

453.065. As used in sections 453.065 to 453.074, the following words and terms shall
2 have the meanings indicated:

3 (1) "Child", a person within the state who is under the age of eighteen or in the custody
4 of the division of family services who is in need of medical, dental, educational, mental or other
5 related health services and treatment, as defined in this section, or who belongs to a racial or
6 ethnic minority, who is five years of age or older, or who is a member of a sibling group, and for
7 whom an adoptive home is not readily available. If the physical, dental or mental condition of
8 the child requires care after the age of eighteen, payment can be continued with the approval of
9 the division of family services of the department of social services and subject to annual review;

10 (2) "Diminishing allotment", a monthly payment which periodically diminishes over a
11 period of not longer than four years at which time it ceases;

12 (3) "Long term subsidy", a continuous monthly payment toward the child's care for a
13 period of more than four years;

14 (4) **"Post adoption contract agreement", a written agreement approved by the court**
15 **under subsection 4 of section 453.080;**

16 (5) "Special services", an allotment to a child who is in need of medical, dental,
17 educational, mental health or other related health services and treatment, including treatment for
18 physical handicap, intellectual impairment, developmental disability, mental or emotional
19 disturbance, social maladjustment;

20 [(5)] (6) "Time limited subsidy", a monthly allotment which is continued for a limited
21 time after legal adoption, not exceeding four years. This compensation is to aid the family in
22 integrating the care of the new child in their home.

 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. **Prospective adoptive parents and parents of a**
35 **prospective adoptee may enter into a written post adoption contract agreement to allow**
36 **contact after the adoption between the parents, siblings, or other relatives of the adoptee**
37 **and the adoptee and the adoptive parents.** Upon completion of an adoption, further contact
38 among the parties shall be at the discretion of the adoptive parents, **and such adoptive parents**
39 **may exercise their discretion to enter into a written post adoption contract agreement with**
40 **the former parents of an adoptee to allow contact between a former parent, sibling, or**
41 **other relative of the adoptee and the adoptee or adoptive parents. The agreement shall be**
42 **in writing, signed by the parties thereto, and be made a part of the court record. The**
43 **agreement shall include:**

44 (1) **An acknowledgment by the former parents that the adoption is irrevocable,**
45 **even if the adoptive parents do not abide by the post adoption contract agreement;**

46 (2) **An acknowledgment by the adoptive parents that the agreement grants the**
47 **former parents the right to seek to enforce the post adoption privileges set forth in the**
48 **agreement.**

49

50 **The court shall enforce a written post adoption contract agreement made in accordance**
51 **with this subsection unless enforcement is not in the best interest of the adoptee.** The court
52 shall not have jurisdiction to deny continuing contact between the adopted person and the birth
53 parent, or an adoptive parent and a birth parent. Additionally, the court shall not have
54 jurisdiction to deny an exchange of identifying information between an adoptive parent and a
55 birth parent.

56 **5. By July 1, 2013, the Missouri supreme court shall develop a standardized form**
57 **to be used in all adoption cases which includes a checklist to verify all of the documents and**
58 **procedures required under this section have been submitted, followed, and reviewed by the**
59 **judge prior to entering a final order. Such form shall include, but not be limited to,**
60 **attachment of any written reports or assessments required under this section and the**
61 **signature of the judge attesting to the submission and review of such form and attachments**
62 **prior to entering a final order. Such form and attachments shall be included as part of the**
63 **adoption record.**

2 **453.510. 1. Effective for all adoptions completed after August 28, 2012, an adopted**
3 **person, who is eighteen years of age, born in this state, and provides proof of identification**
4 **or the adopted person's lineal descendants if the adopted person is deceased, may obtain**
5 **a copy of such adopted person's original certificate of birth from the state registrar in the**
6 **department of health and senior services unless the birth mother or birth father has**
7 **objected as provided by subsection 2 of this section.**

7 **2. Prior to the entry of any decree of adoption, the birth mother and birth father**
8 **shall be provided with a form, developed by the state registrar, by the court to determine**
9 **whether the birth mother or father wishes to maintain the confidentiality of the original**
10 **birth certificate. The birth mother or birth father may signify an objection to the**
11 **disclosure of the original birth certificate of the adopted person on the form provided by**
12 **the court. If the birth mother or birth father objects, the court shall provide this form to**
13 **the state registrar to be filed with the original certificate of birth. No decree of adoption**
14 **shall be entered in this state until the birth mother and birth father, unless he is unknown**
15 **or refuses to do so, have been afforded the opportunity to communicate their individual**
16 **wishes as to the disclosure of the original birth certificate.**

17 **3. (1) If a birth mother or birth father has objected to the disclosure of the original**
18 **birth certificate under subsection 2 of this section, then an adopted person who is at least**
19 **eighteen years of age, born in this state, and provided proof of identification, or the**
20 **adopted person's lineal descendants if the adopted person is deceased, may request that the**
21 **department of social services, the child-placing agency which processed the adoption, or**
22 **the court personnel make reasonable efforts to notify the birth mother and birth father of**
23 **the request of the adopted adult or the adopted adult's lineal descendants. If the**
24 **department of social services does not have sufficient information or resources to locate**
25 **and notify the birth mother and birth father, the department may refer the adopted person**
26 **or the adopted person's lineal descendants to, or work in conjunction with, the child-**
27 **placing agency, or the court to notify the birth mother and birth father of the request of**
28 **the adopted adult or the adopted adult's lineal descendants. The department of social**
29 **services, the child-placing agency, or the court may charge actual costs to the adopted adult**
30 **or the adopted adult's lineal descendants for the cost of attempting to notify the birth**
31 **mother and birth father. All communications under this section are confidential. For**
32 **purposes of this subsection, "notify" means personal and confidential contact with the**
33 **birth mother and birth father of the adopted adult, which initial contact shall be made by**
34 **an employee of the department of social services, the child-placing agency which processed**
35 **the adoption, court personnel, or some other licensed child-placing agency designated by**
36 **the department of social services, the child-placing agency, or the court. Nothing in this**
37 **section shall be construed to permit the disclosure of communications privileged under**
38 **section 491.060.**

39 **(2) If the birth mother and birth father consent to the release of the original birth**
40 **certificate under this subsection, the department of social services, the child placing agency,**
41 **or the court personnel shall obtain a copy of a notarized form developed by the state**
42 **registrar and provided by the court and signed by the birth mother and birth father, if**

43 known, giving consent to release of the original birth certificate and provide it to the
44 adopted person or the adopted person's lineal descendants. The adopted person or the
45 adopted persons lineal descendants may obtain a copy of the adopted person's original
46 birth certificate in accordance with subsection 5 of this section upon presenting the
47 notarized consent form to the state registrar.

48 (3) If the birth mother or birth father does not consent to the release of a copy of
49 the original certificate of birth, or cannot be located, such copy shall not be released. The
50 adopted person or the adopted person's lineal descendants if the adopted person is
51 deceased may request that the department of social services, the child placing agency, or
52 the court personnel contact the birth mother and birth father again not less than three
53 years after the date of his or her original request and not less than three years from the
54 date of any future requests.

55 4. If the birth mother or birth father objected under subsection 2 of this section,
56 upon the birth mother's and birth father's death, the adopted person or the adopted
57 person's lineal descendants if the adopted person is deceased may obtain a copy of the
58 original certificate of birth from the state registrar.

59 5. Any time a copy of an original certificate of birth is obtained under this section,
60 the state registrar shall issue an uncertified copy of the unaltered, original birth certificate
61 to the adopted person or the adopted person's lineal descendants if the adopted person is
62 deceased. The copy of the birth certificate shall have the following statement printed on
63 it: "For informational purposes only - not to be used for establishing identity."

453.515. 1. (1) For all adoptions completed on or prior to August 28, 2012, an
2 adopted person who is at least eighteen years of age, born in this state, and provides proof
3 of identification, or the adopted person's lineal descendants if the adopted person is
4 deceased, may request that the department of social services, the child-placing agency
5 which processed the adoption, or the court personnel make reasonable efforts to notify the
6 birth mother and birth father of the request of the adopted adult or the adopted adult's
7 lineal descendants to request their consent to release a copy of the adopted adult's original
8 birth certificate. If the department of social services does not have sufficient information
9 or resources to locate and notify the birth mother and birth father, the department may
10 refer the adopted person or the adopted person's lineal descendants to, or work in
11 conjunction with, the child-placing agency or the court to notify the birth mother and birth
12 father of the request of the adopted adult or the adopted adult's lineal descendants. The
13 department of social services, the child-placing agency, or the court may charge actual
14 costs to the adopted adult or the adopted adult's lineal descendants for the cost of
15 attempting to notify the birth mother and birth father. All communications under this

16 section are confidential. For purposes of this subsection, "notify" means personal and
17 confidential contact with the birth mother and birth father of the adopted adult, which
18 initial contact shall be made by an employee of the department of social services, the child-
19 placing agency which processed the adoption, court personnel, or some other licensed
20 child-placing agency designated by the department of social services, the child-placing
21 agency, or the court. Nothing in this section shall be construed to permit the disclosure of
22 communications privileged under section 491.060.

23 (2) If the birth mother and birth father consent to the release of the original birth
24 certificate, the department of social services, the child placing agency, or the court
25 personnel shall obtain a copy of a notarized form developed by the state registrar provided
26 by the court and signed by the birth mother and birth father, if known, giving consent to
27 release of the original birth certificate and provide it to the adopted person or the adopted
28 person's lineal descendants. The adopted person or the adopted persons lineal descendants
29 may obtain a copy of the adopted person's original birth certificate in accordance with
30 subsection 5 of section 453.510 upon presenting the notarized consent form to the state
31 registrar.

32 (3) If the birth mother or birth father does not consent to the release of a copy of
33 the original certificate of birth or cannot be located, such copy shall not be released. The
34 adopted person or the adopted person's lineal descendants if the adopted person is
35 deceased may request that the department of social services, the child placing agency, or
36 the court personnel contact the birth mother and birth father again not less than three
37 years after the date of his or her original request and not less than three years from the
38 date of any future requests.

39 2. Upon the birth mother's and birth father's death, the adopted person or the
40 adopted person's lineal descendants if the adopted person is deceased may obtain a copy
41 of the original certificate of birth from the state registrar.

42 3. Any time a copy of an original certificate of birth is obtained under this section,
43 the state registrar shall issue an uncertified copy of the unaltered, original birth certificate
44 to the adopted person or the adopted person's lineal descendants if the adopted person is
45 deceased. The copy of the birth certificate shall have the following statement printed on
46 it: "For informational purposes only - not to be used for establishing identity."

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