

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 1258, 1259 & 1260

96TH GENERAL ASSEMBLY

5156L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 193.215 and 453.040, RSMo, and to enact in lieu thereof three new sections relating to consent for adoption.

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

Section A. Sections 193.215 and 453.040, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 193.215, 453.040 and 453.045, to read as
3 follows:

193.215. 1. A certificate or report registered pursuant to sections 193.005 to 193.325
2 may be amended only pursuant to the provisions of sections 193.005 to 193.325, and regulations
3 adopted by the department.

4 2. A certificate or report that is amended pursuant to this section shall be marked
5 "Amended" except as otherwise provided in this section. The date of amendment and a summary
6 description of the evidence submitted in support of the amendment shall be endorsed on or made
7 part of the record.

8 3. Upon receipt of a certified copy of an order of a court of competent jurisdiction
9 changing the name of a person born in this state and upon request of such person or such person's
10 parents, guardian, or legal representative, the state registrar shall amend the certificate of birth
11 to show the new name. The court order shall include such facts as are necessary to locate and
12 identify the certificate of birth of the person whose name is being changed.

13 4. When an applicant does not submit the minimum documentation required in the
14 regulations for amending a vital record or when the state registrar has reasonable cause to
15 question the validity or adequacy of the applicant's sworn statements or the documentary
16 evidence, and if the deficiencies are not corrected, the state registrar shall not amend the vital

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 record and shall advise the applicant of the reason for this action and the applicant's right of
18 appeal to a court of competent jurisdiction.

19 5. When a certificate or report is amended pursuant to this section, the state registrar
20 shall report the amendment to any other custodians of the vital record and their record shall be
21 amended accordingly.

22 6. Upon written request of both parents and receipt of a sworn acknowledgment of
23 paternity notarized and signed by both parents of a child born out of wedlock, the state registrar
24 shall amend the certificate of birth to show such paternity. The acknowledgment affidavit form
25 shall be developed by the state registrar and shall include the minimum requirements prescribed
26 by the secretary of the Department of Health and Human Services pursuant to 42 U.S.C. Section
27 652(a)(7). The acknowledgment form shall include provisions to allow the parents to change the
28 surname of the child and such surname shall be changed on the birth record if the parents elect
29 to change the child's surname. The signature of the parents shall be notarized or the signature
30 shall be witnessed by at least two disinterested adults whose signatures and addresses shall be
31 plainly written thereon. The form shall be accompanied by oral notice, which may be provided
32 through the use of video or audio equipment, and written notice to the mother and putative father
33 of:

34 (1) The alternatives to, the legal consequences of, and the rights and responsibilities that
35 arise from signing the acknowledgment;

36 (2) The benefits of having the child's paternity established; and

37 (3) The availability of paternity establishment and child support enforcement services.

38 **7. Only a mother whose parental rights have not been voluntarily or involuntarily**
39 **terminated, or whose consent to adoption or waiver of consent to adoption has not been**
40 **accepted and approved by a court of competent jurisdiction may execute a voluntary**
41 **acknowledgment of paternity under this section. A court of competent jurisdiction may**
42 **order the bureau of vital statistics to rescind any amended birth certificate when it was**
43 **issued based upon an acknowledgment of a mother whose parental rights have been**
44 **voluntarily or involuntarily terminated, or whose consent to adoption or waiver of consent**
45 **to adoption has been accepted by a court prior to the acknowledgment of paternity.**

46 8. A rescission of acknowledgment form shall be filed with the bureau of vital records
47 pursuant to section 210.823 to vacate the legal finding of paternity. The bureau shall file all
48 rescissions and forward a copy of each to the division of child support enforcement. The birth
49 record shall only be changed pursuant to this subsection upon an order of the court or the
50 division of child support enforcement.

51 [7.] 9. The department shall offer voluntary paternity establishment services.

52 [8.] 10. Upon receipt of a certified copy of an order of a court of competent jurisdiction
53 changing the name of a person born in this state and upon request of such person or such person's
54 parents, guardian or legal representative, the state registrar shall amend the certificate of birth
55 to show the new name.

56 [9.] 11. Upon receipt of a certified copy of an order of a court of competent jurisdiction
57 indicating the sex of an individual born in this state has been changed by surgical procedure and
58 that such individual's name has been changed, the certificate of birth of such individual shall be
59 amended.

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 terminated pursuant to
3 law, including section 211.444 or section 211.447 or other similar laws in other states;

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

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

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

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

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

18 (7) A parent who has for a period of at least six months, for a child one year of age or
19 older, or at least sixty days, for a child under one year of age, immediately prior to the filing of
20 the petition for adoption, willfully abandoned the child or, for a period of at least six months
21 immediately prior to the filing of the petition for adoption, willfully, substantially and
22 continuously neglected to provide him with necessary care and protection;

23 (8) **A man who has reason to believe he is the biological father of a newborn child**
24 **but who has not provided consistent prenatal financial support to the mother and**
25 **consistent payment for prenatal, natal, and postnatal medical care for the mother and baby**
26 **unless actively thwarted from doing so by the mother;**

27 (9) A parent whose rights to the child may be terminated for any of the grounds set forth
28 in section 211.447 and whose rights have been terminated after hearing and proof of such

29 grounds as required by sections 211.442 to 211.487. Such petition for termination may be filed
30 as a count in an adoption petition;

31 **(10) A man whose consent is not required under subdivision (2) of subsection 3 of**
32 **section 453.030.**

453.045. A man whose consent to adoption is not required under section 453.030
2 **or 453.040 waives his rights to intervene in an action for termination of parental rights or**
3 **in an action for adoption, or to file a paternity action for a child after a petition for either**
4 **adoption or termination of parental rights has been filed with the court, unless he can**
5 **establish that he has previously developed a consistent and substantial relationship with**
6 **the child, including but not limited to by providing, unless actively thwarted from doing**
7 **so by the mother of the child:**

8 **(1) Consistent prenatal financial support; and**

9 **(2) Consistent payment of prenatal and natal medical care for the mother and**
10 **baby; and**

11 **(3) Consistent child support payments commensurate with his ability to pay; and**

12 **(4) Consistent contact and visitation with the child; and**

13 **(5) Assistance with educational and medical care of the child.**

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