

FIRST REGULAR SESSION

# HOUSE BILL NO. 248

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ELLINGTON (Sponsor), MIMS, PACE, PIERSON, HUMMEL,  
DUNN, MEREDITH, LAFAVER, CONWAY (10), WALTON GRAY AND SMITH (85) (Co-sponsors).

0455L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 453.030, RSMo, and to enact in lieu thereof one new section relating to adoption.

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

Section A. Section 453.030, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 453.030, to read as follows:

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

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

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

(1) The mother of the child; and

(2) Only the man who:

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.

16 (a) Is presumed to be the father pursuant to the subdivision (1), (2), or (3) of subsection  
17 1 of section 210.822; or

18 (b) Has filed an action to establish his paternity in a court of competent jurisdiction no  
19 later than [fifteen] **sixty** days after the birth of the child and has served a copy of the petition on  
20 the mother in accordance with section 506.100; or

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

25 (3) The child's current adoptive parents or other legally recognized mother and father.  
26 Upon request by the petitioner and within one business day of such request, the clerk of the local  
27 court shall verify whether such written consents have been filed with the court.

28 4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section  
29 may be executed before or after the commencement of the adoption proceedings, and shall be  
30 acknowledged before a notary public. In lieu of such acknowledgment, the signature of the  
31 person giving such written consent shall be witnessed by the signatures of at least two adult  
32 persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses  
33 shall not be the prospective adoptive parents or any attorney representing a party to the adoption  
34 proceeding. The notary public or witnesses shall verify the identity of the party signing the  
35 consent.

36 5. The written consent required in subdivision (1) of subsection 3 of this section by the  
37 birth parent shall not be executed anytime before the child is forty-eight hours old. Such written  
38 consent shall be executed in front of a judge or a notary public. In lieu of such acknowledgment,  
39 the signature of the person giving such written consent shall be witnessed by the signatures of  
40 at least two adult persons who are present at the execution whose signatures and addresses shall  
41 be plainly written thereon and who determine and certify that the consent is knowingly and freely  
42 given. The two adult witnesses shall not be the prospective adoptive parents or any attorney  
43 representing a party to the adoption proceeding. The notary public or witnesses shall verify the  
44 identity of the party signing the consent.

45 6. The written consents shall be reviewed and, if found to be in compliance with this  
46 section, approved by the court within three business days of such consents being presented to the  
47 court. Upon review, in lieu of approving the consent within three business days, the court may  
48 set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and  
49 approve the written consent within three business days shall not void the consent, but a party may  
50 seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set  
51 by the court pursuant to this subsection.

52           7. The written consent required in subsection 3 of this section may be withdrawn anytime  
53 until it has been reviewed and accepted by a judge.

54           8. A consent form shall be developed through rules and regulations promulgated by the  
55 department of social services. No rule or portion of a rule promulgated under the authority of  
56 this section shall become effective unless it has been promulgated pursuant to the provisions of  
57 chapter 536. If a written consent is obtained after August 28, 1997, but prior to the development  
58 of a consent form by the department and the written consent complies with the provisions of  
59 subsection 9 of this section, such written consent shall be deemed valid.

60           9. However, the consent form must specify that:

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

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

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

69           11. Where the person sought to be adopted is eighteen years of age or older, his written  
70 consent alone to his adoption shall be sufficient.

71           12. A birth parent, including a birth parent less than eighteen years of age, shall have the  
72 right to legal representation and payment of any reasonable legal fees incurred throughout the  
73 adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

74           (1) A birth parent requests representation;

75           (2) The court finds that hiring an attorney to represent such birth parent would cause a  
76 financial hardship for the birth parent; and

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

78           13. Except in cases where the court determines that the adoptive parents are unable to  
79 pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall  
80 order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid  
81 by the prospective adoptive parents or the child-placing agency.

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