

Stricken language would be deleted from, and underlined language would be added to present law.

1 State of Arkansas  
2 92<sup>nd</sup> General Assembly  
3 Regular Session, 2019  
4

A BILL

5 By:  
6 By:  
7

**For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAW CONCERNING ADOPTIONS  
9 WHEN A LICENSED CHILD PLACEMENT AGENCY IS NOT  
10 USED; TO DECLARE AN EMERGENCY; AND FOR OTHER  
11 PURPOSES.  
12

**Subtitle**

13 TO AMEND THE LAW CONCERNING ADOPTIONS  
14

15  
16  
17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. This act shall be known as the Arkansas Adoption Reform Act.  
22

23 SECTION 2. Arkansas Code Title 9, Chapter 9, Section 101(b)(1), is amended to read as  
24 follows:  
25

26 (b)(1) A hospital or birthing center release form under this section must:  
27

28 (A) Be executed in writing;

29 (B) Be witnessed by two (2) credible adults;

30 (C) Authorize the petitioner for adoption, the guardian of the minor child, the  
31 licensed child placement agency, the division, or the attorney acting on behalf of any of the

**Stricken language would be deleted from, and underlined language would be added to present law.**

1 foregoing entities to obtain any medical treatment, including circumcision of a male child,  
2 reasonably necessary for the care of the minor and to authorize any physician or medical services  
3 provider to furnish additional services deemed reasonable and necessary; ~~and~~

4 (D) Be verified before a person authorized to take oaths; and

5 (E) When a licensed child placement agency is not being utilized in the  
6 adoption, be approved by either the hospital social worker or another social worker independent  
7 of the adoptive parents after having counseled the biological parents on the permanency of  
8 adoption, services available to low income parents, prohibitions against receiving unlawful pay for  
9 placing a child up for adoption, and has obtained from the biological parents reasonable assurances  
10 that giving up the child for adoption is their informed decision made free from any duress,  
11 coercion, undue influence, intimidation, or force.

12 a. Any hospital or social worker that after due diligence makes a decision  
13 under this subparagraph shall be granted absolute immunity from suit  
14 and liability by any Arkansas Court regarding said decision, whether in  
15 approval or disapproval of the release.

16  
17 SECTION 3. Arkansas Code Title 9, Chapter 9, Section 205(a)(1) is amended to read as  
18 follows:

19  
20 (1) The state shall possess jurisdiction over the adoption of a minor if the person seeking  
21 to adopt the child, or the child, is a resident of this state. No court shall approve an adoption unless  
22 the petitioner has adequately plead facts concerning the residency requirements for jurisdiction to  
23 vest in this state and the court finds by a preponderance of the evidence that the state has personal  
24 jurisdiction over the petitioners and the person to be adopted.

25  
26 SECTION 4. Arkansas Code Title 9, Chapter 9, Section 206(c) is amended to read as  
27 follows:

28  
29 Under no circumstances may a parent or guardian of a minor receive a fee, compensation,  
30 or any other thing of value as a consideration for the relinquishment of a minor for adoption.  
31 However, incidental costs for prenatal, delivery, and postnatal care may be assessed, including

**Stricken language would be deleted from, and underlined language would be added to present law.**

1 reasonable housing costs, food, clothing, ~~general maintenance~~, and medical expenses, if they are  
2 reimbursements for expenses incurred or fees for services rendered that are reasonably related to  
3 the adoption. Consistent with the provisions of Arkansas Code 9-9-225, the costs prescribed  
4 therein may be assessed accordingly. Any parent or guardian who unlawfully accepts  
5 compensation or any other thing of value as a consideration for the relinquishment of a minor shall  
6 be guilty of a Class C felony. Any person who facilitates the unlawful compensation or any other  
7 thing of value as a consideration for the relinquishment of a child shall be guilty of a Class A  
8 felony.

9  
10 SECTION 5. Arkansas Code Title 9, Chapter 9, Section 208 is amended to add subsection  
11 (d) as follows:

12  
13 (d) Except when given by a court, any consent must contain sufficient facts of the  
14 residential history of the child to be adopted or the child's biological mother to establish  
15 jurisdiction in this state.

16  
17 SECTION 6. Arkansas Code Title 9, Chapter 9, Section 209(b)(3) is amended to read as  
18 follows:

19  
20 (3) The consent shall state that the person may waive the ten-day period for the withdrawal  
21 of consent for an adoption and elect to limit the maximum time for the withdrawal of consent for  
22 an adoption to five (5) days, except when the services of a licensed child placement agency are not  
23 being utilized in any adoption other than an adoption within the second degree of consanguinity  
24 or a step-parent adoption.

25  
26 SECTION 7. Arkansas Code Title 9, Section 210(a)(4) is amended to read as follows:

27  
28 (4) Allegations of fact establishing jurisdiction in this State to include the full name, age,  
29 place, and duration of residence of the petitioner, and the full name, place, and residential history  
30 of the biological mother for the past four (4) months if the child to be adopted is under six (6)  
31 months of age.

Stricken language would be deleted from, and underlined language would be added to present law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

SECTION 8. Arkansas Code Title 9, Chapter 9, Section 211(a) is amended to read as follows:

(a) Except as specified in subsection (b) of this section, the petitioner, in any proceeding for the adoption of a minor, shall file, before the petition is heard, a full accounting report ~~in a manner acceptable to the court~~ of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. If the services of a licensed child placement agency are not being utilized in any adoption other than one within the second degree of consanguinity or a step-parent adoption, the biological parents shall file a similar accounting report of all payments of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. Accounting reports shall be itemized and state the date each disbursement of anything of value was made, a specific purpose for which said disbursements were made, and the specific exemption provided in Arkansas Code 9-9-206(c) under which said disbursements were made. The ~~petitioner parties~~ shall file a sworn affidavit alleging the truthfulness of said accounting report showing any expenses incurred in connection with:

- (1) The birth of the minor;
- (2) Placement of the minor with petitioner;
- (3) Medical or hospital care received by the mother or by the minor during the mother's prenatal care and confinement;
- (4) Services relating to the adoption or to the placement of the minor for adoption which were received by or on behalf of the petitioner, either natural parent of the minor, or any other person; and
- (5) Fees charged by all attorneys involved in the adoption, including those fees charged by out-of-state attorneys.

SECTION 9. Arkansas Code Title 9, Chapter 9, Subchapter 2 is amended to add an additional section to read as follows:

9-9-225. Services for Biological Parents.

Stricken language would be deleted from, and underlined language would be added to present law.

1  
2       (a) When the services of a licensed child placement agency are not being utilized during  
3 the course of a private adoption, except in the cases of an adoption within the second degree of  
4 consanguinity or a step-parent adoption, the petitioner shall file the petition set forth in Arkansas  
5 Code 9-9-210 as soon as the petitioner has been matched to a child for adoption, indicating therein  
6 that no licensed child placement agency will be used in this adoption and whether the biological  
7 parents are represented by counsel. If the biological parents are represented by counsel, said  
8 counsel must not practice in the same office as counsel for the petitioner, shall not receive a referral  
9 fee from counsel for the petitioner, shall not have contracted in any way with counsel for the  
10 petitioner regarding the substance of this or any other petition for adoption, and shall have  
11 otherwise taken steps to avoid the appearance of a conflict of interests or other impropriety.

12       (b) Upon receipt of a petition pursuant to subsection (a), the court shall order the petitioners  
13 to pay into the registry of the court two thousand dollars (\$2,000.00) for the appointment of counsel  
14 for the biological parents if the biological parents are unrepresented by counsel. The petitioner  
15 shall have fourteen (14) calendar days from the date of said order to deposit said funds in the  
16 registry of the court. Upon receiving notice that said funds have been deposited in the registry of  
17 the court, the court shall appoint an attorney who has been qualified pursuant to Administrative  
18 Order Number 15 of the Arkansas Supreme Court to represent the biological parents.

19       (c) An attorney appointed to represent the biological parents pursuant to subsection (b)  
20 shall:

21             (1) perform the duties enumerated in Section 3 of Administrative Order Number 15  
22 of the Arkansas Supreme Court to the extent that they are applicable;

23             (2) protect the right of the biological parents to consent to an adoption free from  
24 duress, coercion, undue influence, intimidation, threats, or force;

25             (3) retain the services of a counselor, social worker, or community support  
26 organization, including one for which the attorney works as an organization designed to  
27 support biological parents as long as the professional independence of the attorney is not  
28 compromised, to educate and counsel the biological parents on services available to them  
29 through the Department of Human Services and other organizations in the event that the  
30 biological parents desire to keep their child;

**Stricken language would be deleted from, and underlined language would be added to present law.**

1           (4) protect the biological parents from any payment to them in violation of Arkansas  
2           Code 9-9-206(c);

3           (5) ensure that the biological parents are not victims under the Human Trafficking  
4           Act of 2013;

5           (6) protect the biological parents from violation of any law, regulation, or treaty of  
6           the United States or the State of Arkansas related to the petition for adoption;

7           (7) aid the biological parents in the preparation of an accounting report pursuant to  
8           Arkansas Code 9-9-211;

9           (8) ensure that this state has jurisdiction to hear an adoption pursuant to 9-9-205 by  
10          obtaining and reporting to the court in an appropriate manner a reasonably investigated  
11          residential history of the child's biological mother; and

12          (9) otherwise represent, advocate for, and advise the biological parents consistent  
13          with the best traditions of the practice of law.

14          (d) At any time during the pendency of the petition for adoption, the attorney appointed  
15          pursuant to this section may petition the court for payment of reasonable costs and fees associated  
16          with their duties required herein to be paid from the sums paid into the registry of the court, and  
17          the court may order the parties to pay any additional sums to the appointed attorney as may be  
18          equitable under the circumstances.

19  
20          SECTION 10. Arkansas Code Title 5, subtitle 3, chapter 25, subchapter 2 is amended to  
21          add an additional section to read as follows:

22  
23          5-26-204 Unlawful Solicitation for Relinquishment of Rights.

24  
25          (a)     A person commits the offense of unlawful solicitation for relinquishment of rights  
26          in the second degree if the person offers a pregnant woman, her spouse, her partner, or her putative  
27          father anything of value in exchange for allowing the person to adopt the unborn child of the  
28          pregnant woman, her spouse, her partner, or her putative father.

29                 (1) A person found guilty of unlawful solicitation for relinquishment of rights in  
30          the second degree shall be guilty of a class A misdemeanor unless the person is also found to have  
31          utilized duress, coercion, undue influence, intimidation, threats, fraud, or force to influence the

**Stricken language would be deleted from, and underlined language would be added to present law.**

1 pregnant woman, her spouse, her partner, or her putative father, in which case a person found  
2 guilty under this subsection shall be guilty of a class D felony.

3 (b) A person commits the offense of unlawful solicitation for relinquishment of rights  
4 in the first degree if the person offers a pregnant woman, her spouse, her partner, or her putative  
5 father anything of value in exchange for allowing the person or another person to place up for  
6 adoption the unborn child of the pregnant woman, her spouse, her partner, or her putative father.

7 (1) A person found guilty of unlawful solicitation for relinquishment of rights in  
8 the first degree shall be guilty of a class C felony unless the person is also found to have utilized  
9 duress, coercion, undue influence, intimidation, threats, fraud, or force to influence the pregnant  
10 woman, her spouse, her partner, or her putative father, in which case a person found guilty under  
11 this subsection shall be guilty of a class A felony.

12  
13 SECTION 11: EMERGENCY CLAUSE. It is found and determined by the General  
14 Assembly of the State of Arkansas that there are attorneys and doctors who are not licensed child  
15 welfare or placement agencies acting on behalf of both biological and adoptive parents; that by so  
16 doing the appearance of a conflict of interests exists; that in many cases an actual conflict of  
17 interest exists; that some biological parents are voluntarily terminating their parental rights without  
18 understanding the permanency of that decision or other options available to them; and that this act  
19 is immediately necessary to protect the citizens of the State of Arkansas from these conflicting  
20 interests. Therefore, an emergency is declared to exist, and this act being immediately necessary  
21 for the preservation of the public peace, health, and safety shall become effective on:

22 (1) The date of its approval by the Governor;

23 (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period  
24 of time during which the Governor may veto the bill; or

25 (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house  
26 overrides the veto.

27  
28  
29  
30  
31