



**S.B. 132**

123rd General Assembly  
(As Introduced)

Sen. Blessing

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**BILL SUMMARY**

- Requires a parent of a child who contests the child's adoption to deposit child support with the court when contesting the adoption if the parent previously has executed a writing consenting to the adoption or has entered into an agreement to surrender the child for adoption.
- Prohibits a court from considering a parent's adoption contest under the circumstances described above unless the parent deposits a specified amount of child support with the court.
- Requires a court to determine the amount of child support to be deposited with the court in adoption contests under the circumstances described above.
- Provides for the payment of the deposited child support to the prospective adoptive parents if the adoption contest is resolved in favor of the child's parent and the child is removed from the prospective adoptive parents' custody.

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**CONTENT AND OPERATION**

**Revocation of a consent to adoption**

**Existing law**

Under existing law, a consent to adoption is irrevocable and cannot be withdrawn after the entry of an interlocutory order or after the entry of a final decree of adoption when no interlocutory order has been entered. The consent of a minor is not voidable by reason of the minor's age. A consent to adoption may be withdrawn prior to the entry of an interlocutory order or prior to the entry of a final decree of adoption when no interlocutory order has been entered if the court finds

after hearing that the withdrawal is in the best interest of the person to be adopted and the court by order authorizes the withdrawal of consent. Notice of the hearing shall be given to the petitioner, the person seeking the withdrawal of consent, and the agency placing the minor for adoption. (R.C. 3107.084.) (See **COMMENT**.)

### **Operation of the bill**

Under the bill, when a parent of a child contests the child's adoption, the court must determine a reasonable amount of child support for the period the prospective adoptive parents have had uncontested physical custody of the child if either of the following is the case: (1) the parent executed a writing that indicates consent to the adoption pursuant to R.C. 3107.081, or (2) the parent entered into an agreement with a public children services agency or private child placing agency surrendering the child into the permanent custody of the agency pursuant to R.C. 5103.15(B) (R.C. 3107.162(A)).

The parent who desires to contest the adoption must deposit the amount determined by the court above with the court. The court is prohibited from considering the parent's contest unless the deposit is made. (R.C. 3107.162(B).)

The court must order that the amount of child support deposited by the contesting parent be paid to the prospective adoptive parents if all of the following apply: (1) the parent successfully contests the adoption, (2) the child is removed from the adoptive parents' custody, and (3) the court is notified that all appeals have been exhausted. The court must order that the amount of child support deposited with the court by the contesting parent be returned to that parent if all of the following apply: (1) the contest of the adoption is unsuccessful, (2) the adoptive parents retain custody of the child, and (3) the court is notified that all appeals have been exhausted. (R.C. 3107.162(C).)

The bill makes the existing provision dealing with the withdrawal of consent to adoption prior to an interlocutory or final order of adoption subject to the bill's provisions dealing with depositing child support as a prerequisite to contesting an adoption (R.C. 3107.084(B)).

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## **COMMENT**

**Who must consent to an adoption.** Unless consent is not required under R.C. 3107.07, a petition to adopt a minor may be granted only if written consent to the adoption has been executed by all of the following: (1) the mother of the minor, (2) the putative father of the minor, (3) any person or agency having permanent custody of the minor or authorized by court order to consent, (4) the juvenile court that has jurisdiction to determine custody of the minor, if the legal

guardian or custodian of the minor is not authorized by law or court order to consent to the adoption, (5) the minor, if more than 12 years of age, unless the court, finding that it is in the best interest of the minor, determines that the minor's consent is not required, and (6) the father of the minor, if any of the following apply: (a) the minor was conceived or born while the father was married to the mother, (b) the minor is his child by adoption, (c) prior to the date the petition was filed, it was determined by a court proceeding pursuant to Ohio's Parentage Law, a court proceeding in another state, an administrative proceeding under the Parentage Law, or an administrative proceeding in another state that he has a parent and child relationship with the minor, and (d) he acknowledged paternity of the child and that acknowledgment has become final. (R.C. 3107.06.)

If a parent enters into a voluntary permanent custody surrender agreement under R.C. 5103.15(B)(2), the parent's consent to the adoption of the child who is the subject of the agreement is required unless all of the following requirements are met (R.C. 3107.071):

(A) For a parent of a child for which, prior to September 18, 1996, a parent consented to adoption or the court determined consent of a parent was not required, all of the following apply: (1) the parent does all of the following: (a) on the form that is prescribed by the Department of Human Services (DHS) and that deals with releasing information about the natural parents of an adopted child (DHS form), signs the component of the form acknowledging receipt of information about the adoption law and the effect of signing specified parts of the form, (b) checks either "yes" or "no" on the component of the DHS form dealing with authorizing release of information about the parent of the adopted child, and signs that component, and (c) if the parent is the mother of the child, completes and signs the component of the DHS form dealing with specific information about the mother, (2) the agency provides the parent the opportunity to sign the components of the DHS form authorizing the release of the parent's first name, photograph, and other personal information, and (3) the agency files with the juvenile and probate courts the above-described DHS form signed by the parent, provides a copy of the signed form to the parent, and keeps a copy of the signed form in the agency's record. The court must keep a copy of the signed DHS form in the court records.

(B) For a parent of a child not covered by (A), above, all of the following apply: (1) the parent does both of the following: (a) signs the component of the DHS form acknowledging that the parent was given information about adoption, discussed the ramifications of adoption, and was provided an opportunity to review the materials and ask questions about the materials and related matters, and (b) if the parent is the mother, completes and signs the component of the DHS form

dealing with specific information about the mother, (2) the agency provides the parent the opportunity to sign at the time the parent enters into the agreement with the agency, if the parent chooses to do so, the components of the DHS form authorizing release of the parent's photograph, first name, and other materials to the child or adoptive parents, and (3) the agency files the DHS form with the juvenile and probate courts, provides a copy of the signed form to the parent, and keeps a copy of the signed form in the agency's records.

**Who need not consent to an adoption.** Consent to adoption is not required of any of the following (R.C. 3107.07):

(A) A parent of a minor, when it is alleged in the adoption petition and the court finds after proper service of notice and hearing, that the parent has failed without justifiable cause to communicate with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner;

(B) The putative father of a minor if either of the following applies: (1) the putative father fails to register as the minor's putative father with the putative father registry not later than 30 days after the minor's birth, (2) the court finds, after proper service of notice and hearing, that any of the following are the case: (a) the putative father is not the father of the minor, (b) the putative father has willfully abandoned or failed to care for and support the minor, or (c) the putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first;

(C) Except as provided in R.C. 3107.071, a parent who has entered into a voluntary permanent custody surrender agreement under R.C. 5103.15(B);

(D) A parent whose parental rights have been terminated by order of a juvenile court;

(E) A parent who is married to the petitioner and supports the adoption;

(F) The father, or putative father, of a minor if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of that offense;

(G) A legal guardian or guardian ad litem of a parent judicially declared incompetent in a separate court proceeding who has failed to respond in writing to

a request for consent, for a period of 30 days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;

(H) Any legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent, for a period of 30 days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably;

(I) The spouse of the person to be adopted, if the failure of the spouse to consent to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain the consent or refusal of the spouse;

(J) Any parent, legal guardian, or other lawful custodian in a foreign country, if the person to be adopted has been released for adoption pursuant to the laws of the country in which the person resides and the release of such person is in a form that satisfies the requirements of the Immigration and Naturalization Service of the United States Department of Justice for purposes of immigration to the United States;

(K) Except as provided in (G) and (H) above, a juvenile court, agency, or person given notice of the petition that fails to file an objection to the petition within 14 days after proof is filed that the notice was given;

(L) Any guardian, custodian, or other party who has temporary custody of the child.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	04-27-99	p. 339

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