



Proposed Sub. H.B. 7

127th General Assembly

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BILL SUMMARY

ACCESS TO ADOPTION RECORDS

- Eliminates the three-tiered system that determines how adoptees obtain identifying information about their birth families, and creates one system under which any adult adoptee, adoptive parent, or lineal descendant may access the contents of the adoptee's adoption file regardless of whether the adoption file was previously closed under the law or by action of a birth parent.
- Requires an adoptive parent or lineal descendant to provide notarized evidence that proves his or her relationship with the adoptee in order to access the adoptee's adoption records.
- Repeals or amends appropriate adoption records law provisions to reflect the single system access to adoption records.

OPEN ADOPTIONS

- Provides for an open adoption to be arranged by a post-adoption contact agreement rather than an open adoption agreement.
- Eliminates a prohibition against an open adoption being binding or enforceable and requires a probate court to enforce, modify, or terminate a post-adoption contact agreement under certain circumstances.
- Permits a birth family member who is related to a child who is in the permanent custody of a public children services agency (PCSA) or private child placing agency (PCPA), including a parent whose parental rights are terminated due to abuse, neglect, or dependency, to maintain contact with the child if the family member is suitable to enter into a post-adoption contact agreement.

- Requires a PCSA or PCPA to make a good faith attempt to locate an adoptive parent who is willing to enter into a post-adoption contact agreement with the birth family member who is related to a child who is in the permanent custody of the agency.

OTHER ADOPTION PROVISIONS

- Adds the birth mother's living expenses (up to \$3,000) incurred during pregnancy and up to two months after the child is born to the payments that may be made in connection with a child's permanent surrender, placement, or adoption.
- Requires the Director of Job and Family Services to adopt rules aligning the adoption and foster care home study content, time periods, and processes.
- Eliminates the requirement that a juvenile court consent to an adoption before a probate court can grant certain adoption petitions involving legal guardians or custodians.
- Specifies that the court must meet the clear and convincing evidence standard when determining whether a parent's consent is needed for his or her child to be adopted in certain cases.
- Provides, generally, that an interlocutory order of adoption is to become final not less than six months and not more than one year from the date of the adoptee's placement in the adoptive home rather than the date of the order's issuance.
- Requires a juvenile court to consider an adoptive parent's ability to meet the needs of all other children residing in the adoptive home when deciding whether to issue a support order when the adoptive parent enters into an agreement with a PCSA or PCPA to place his or her adopted child into the temporary custody of the agency.
- Requires certain programs to emphasize adoption as an option for unintended pregnancies.
- Requires the Department of Job and Family Services to establish a Child-Centered Recruitment Task Force and details the function, members, and expiration date of the Task Force.

- Prohibits a juvenile court from extending a temporary custody order beyond two years from the earlier of the date the complaint was filed or the child was placed in shelter care.

CHILD WELFARE PROVISIONS

- Adds additional criteria to one of the factors, regarding involuntary termination of parental rights with respect to a sibling, that a juvenile court must consider during a permanent custody hearing.
- Requires a juvenile court to place a child in the permanent custody of a PCSA or PCPA under circumstances.
- Specifies that when a child must remain in residential or institutional care the care must be needed for a significant period of time beyond the date of the child's dispositional hearing if a juvenile court is considering placing the child in a planned permanent living arrangement.

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CONTENT AND OPERATION

ACCESS TO ADOPTION RECORDS

Background

A birth certificate for each live birth in this state must be filed in the registration district in which the birth occurs. The form used for the certificate includes spaces for the child's name at birth and the names of the child's parents. Each local registrar is required to transmit to the Ohio Department of Health (ODH) all original birth certificates. ODH must arrange and preserve the certificates in a systematic manner and maintain a permanent index of all births registered. The index is to show the name of the child and place of birth. Birth certificates and the indexes to them are public records available for inspection.¹

Within 30 days after an adoption decree for a child born in Ohio becomes final, a probate court is required to forward a copy of the certificate of adoption to ODH. On receipt of an adoption certificate issued on or after January 1, 1964, ODH must issue, unless otherwise requested by the child's adoptive parents, a new birth record using the child's adopted name and the names of and data concerning the adoptive parents. ODH must place the original birth record and adoption certificate in an adoption file and seal the file. The sealed adoption file is not a public record. The index reference to the original birth record, however, is a public record.²

¹ Revised Code §§ 3705.07, 3705.08, and 3705.09. Ohio Administrative Code § 3701-5-02 (appendix A).

² R.C. 149.43, 3107.19, and 3705.12.



There are three systems for adoptees to obtain a copy of the contents of their adoption file or identifying information about their biological families contained in the adoption file. The system that applies to an adoptee depends on whether (1) the adoption was decreed prior to January 1, 1964, (2) the adoption was decreed on or after January 1, 1964, and the adoptee became available or potentially available for adoption prior to September 18, 1996, or (3) the adoptee became available or potentially available for adoption on or after September 18, 1996.

The three systems

Pre-1964 adoptees. Neither the original birth record nor the birth record in the adopted name of an adoptee whose adoption was decreed prior to January 1, 1964, is sealed. The adoptee may submit a written request to ODH for a copy of the contents of his or her adoption file. If certain requirements are met and it has an adoption file, ODH is required to mail a copy of the contents of the adoption file to the adoptee.³

1964-1996 adoptees. To obtain information about his or her biological family maintained by ODH, a post-1963 adoptee who became available or potentially available for adoption prior to September 18, 1996, must utilize the Ohio Adoption Registry.⁴ To use the Registry, the adoptee must be age 21 or older and file a petition with a probate court requesting the release of information regarding the adoptee's name by birth and the identity of the adoptee's biological parents and siblings.⁵ On receipt of a request and payment of a fee, the probate court is required to appoint a public or private adoption agency to determine

³ R.C. 3107.38 and 3705.12. O.A.C. 3701-5-15.

⁴ An adoptee became available or potentially available for adoption prior to September 18, 1996, if either of the following occurred prior to that date: (1) at least one of the biological parents executed consent to the adoption or (2) a probate court entered a finding that the consent of at least one of the biological parents to the adoption was not needed.

⁵ If the adoptee resides in Ohio, the adoptee must file the petition with the probate court of the county in which the adoptee resides or the probate court that entered the final decree of adoption. If the adoptee does not reside in Ohio, the adoptee must file the petition in the probate court that entered the final decree of adoption or, if the adoptee does not know which court entered the final decree, the probate court of any county.

whether necessary conditions exist for the court to provide the information sought.⁶

In general, for a probate court to order the release of identifying information about the adoptee's biological parents, the biological parents must either have died or filed with ODH, and not withdrawn, a release.⁷ A biological sibling must have filed with ODH, and not withdrawn, a release for the court to release information about the sibling.⁸ A release is a form submitted by a biological parent or sibling to ODH that authorizes a probate court to order the release to the adoptee of information about the biological parent or sibling. In addition to receiving the identity of the biological parent or sibling, the adoptee receives information the parent or sibling includes with the release. The biological parent is not allowed to include with the release information pertaining to the other parent or any of the adoptee's siblings. The biological sibling is not allowed to include information pertaining to either biological parent or any other siblings.⁹

Post-1996 adoptees. An adoptee who became available or potentially available for adoption on or after September 18, 1996, who is age 21 or older (or at least age 18 if the adoptee's adoptive parent acts on the adoptee's behalf) may submit a request with ODH for a copy of the contents of the adoptee's adoption file. ODH is required to provide the adoptee a copy of his or her adoption file unless ODH has on file an effective denial of release from both of the adoptee's biological parents. If there is an effective denial of release from only one of the biological parents, ODH must provide the adoptee a copy of the contents of the adoption file with all identifying information about the biological parent for whom there is an effective denial of release deleted.¹⁰

⁶ R.C. 2101.16, 3107.40, and 3107.41. An adoptee who was adopted prior to January 1, 1964, also may utilize the Ohio Adoption Registry even though the adoptee's adoption file is not sealed. R.C. 3107.38.

⁷ The probate court may not release information about a deceased parent if both parents are on the original birth record and the surviving parent has withdrawn a release or not filed a release.

⁸ The probate court may not release information about a biological sibling unless the parents on the original birth record are deceased or have filed, and not withdrawn, a release.

⁹ R.C. 3107.40 and 3107.41.

¹⁰ R.C. 3107.47. O.A.C. 3701-5-15. A denial of release is a form filed with ODH that prohibits ODH from providing an adoptee with identifying information about the biological parent who signed the form. A denial of release is considered effective as long

Nonidentifying information

An adoptee who is 18 or older may submit a written request to the agency or attorney that arranged the adoption or the probate court that finalized the adoption for nonidentifying information about the adoptee's biological parents or siblings. The adoptive parent may make the request while the adoptee is under age 18 and any member of the adoptee's adoptive family may make the request if the adoptee is deceased. The information must be provided within a reasonable amount of time.¹¹ The information to be provided includes (1) a biological parent's age at the time the adoptee was adopted, (2) the biological parent's medical and genetic history, (3) the age, sex, and medical and genetic history of the biological siblings and extended family members, (4) a person's heritage and ethnic background, education level, general physical appearance, religion, occupation, and cause of death, and (5) any information that may be included in a social and medical history prepared in contemplation of an adoption.¹²

Release of materials, photographs, and parent's first name

When a biological parent executes consent to his or her child's adoption or voluntarily surrenders permanent custody of the child, the biological parent may sign a form authorizing the agency or attorney arranging the adoption to provide the child or adoptive parent materials or photographs of the biological parent that the biological parent gives to the agency or attorney. The biological parent also may sign a form authorizing the agency or attorney to provide the child or adoptive parent the biological parent's first name. With the biological parent's authorization and on request by the child or adoptive parent, the agency or

as the biological parent has not rescinded it. A biological parent may rescind the denial of release by filing with ODH an authorization of release form. R.C. 3107.45 and 3107.46.

¹¹ If the agency or attorney has permanently ceased to arrange adoptions, the adoptee, adoptive parent, or adoptive family member is to submit the request to the private or government entity holding the adoption records, and the private or government entity must act in the agency's or attorney's place.

¹² Identifying information is any of the following information with regard to a person: (1) first, last, and maiden name, (2) alias, (3) social security number, (4) address, (5) telephone number, (6) place of employment, (7) number used to identify the person for the purpose of the statewide education management information system, and (8) any other number federal or state law requires or permits to be used to identify the person. R.C. 3107.01, 3107.60, and 3107.66.

attorney is required to provide the materials, photographs, or biological parent's first name to the child or adoptive parent.¹³

Social and medical histories of biological parents

Except when a child is to be adopted by a stepparent or grandparent, a social and medical history of the biological parents of a child placed for adoption is made part of the adoption record maintained by the probate court with which the adoption petition is filed. The court is required to provide a copy of the history to the prospective adoptive parents promptly after it is filed with the court. Only the adoptive parents may obtain a copy while the child is a minor. Once an adult, only the adoptee may obtain a copy. The adoptive parents and adoptee may request that the clerk of the probate court inform them if the history is corrected or expanded.¹⁴

A social history describes and identifies the biological parents' age; ethnic, racial, religious, marital, and physical characteristics; and educational, cultural, talent and hobby, and work experience background. A medical history identifies the major diseases, malformations, allergies, ear or eye defects, major conditions, and major health problems of the biological parents that may be congenital or familial. A history may include other social and medical information about the biological parents and must include social and medical information about the child's other ancestors. The history may not include identifying information about the child's biological parents or other ancestors.¹⁵

The bill

(R.C. 149.43, 1347.08, 2101.16, 2101.162, 2101.24, 3107.071, 3107.081, 3107.082, 3107.083, 3107.09, 3107.091, 3107.17, 3107.19, 3107.38 (3107.20), 3107.60 (3107.22), 3107.68 (3107.27), 3107.39 through 3107.53 (not in bill), 3107.66 and 3107.67 (not in bill), 3705.12, 3705.241, 5103.151, and 5103.152; Section 4)

The bill eliminates the three systems that determine how adoptees obtain identifying information about their birth families and creates one system applicable to all adoptees born in this state who are at least 18 years of age. Under the one system, an adult adoptee, regardless of the date that the adoptee became available or potentially available for adoption or was adopted and regardless of

¹³ R.C. 3107.071, 3107.081, 3107.083, 3107.68, and 5103.151.

¹⁴ R.C. 3107.09 and 3107.17.

¹⁵ R.C. 3107.09.

whether the file was previously closed under the law or by action of a birth parent, may access the contents of the adoptee's adoption record held by ODH that includes identifying information about the adoptee's birth family. In addition to giving adult adoptees access to the adoption file contents, the bill allows adoptive parents and lineal descendants of an adopted person to access the adoption file contents.¹⁶ As under current law regarding an adoptee whose adoption was decreed before January 1, 1964, the bill requires an adult adoptee, adoptive parent, or lineal descendant seeking the contents of the adoption file to provide ODH with his or her address, notarized signature, and two items of identification. An adoptive parent or lineal descendant must also provide notarized documentation that proves his or her relationship to the adoptee. (See **COMMENT.**)

As the bill creates one system for adoption records access, it eliminates the following provisions of the adoption records law that are made unnecessary:

- Petitioning the court for release of certain records;
- Authorization or denial of release of information;
- Confidentiality of certain records and public access to adoption records;
- Exemption from the personal information systems notification law;
- Civil and criminal immunity for certain professionals having access to identifying information;
- Knowingly revealing certain adoption information without authority to do so;
- Procedures to request contents of the adoption record;
- Allowing a birth parent or sibling to find the adoptee's name by adoption and requesting assistance from ODH;
- The probate court's exclusive jurisdiction over the release of identifying information;
- Petitioning the probate court for the release of identifying information;

¹⁶ "Lineal descendant" means a person 18 years of age or older who is related to an adopted person by blood, marriage, or adoption, and who is the adopted person's child, grandchild, great-grandchild, or other grandchild whose title begins with the prefix "great."

- Access to the nonidentifying information contained in agency, attorney, or court records;
- Fees charged by the probate court for releasing identifying information;
- Forwarding of post-1964 adoption records to the probate court by an agency or attorney that has permanently ceased arranging adoptions;
- Forms necessary to carry out the provisions of the post-1964 adoption records law.

The bill also amends the following provisions to reflect the single system access to adoption records:

- Requirements for the voluntary permanent custody surrender of a child;
- Requirements of a probate court to notify a birth parent of certain issues prior to accepting the parent's consent to the child's adoption;
- Components of the form that must be completed by a birth parent prior to consenting to an adoption;
- Components of the social and medical history form completed by a birth parent;
- Access to the social and medical history forms (under the bill, access may be given only to the adoptee who is over 18 years old, the adoptive parents, and a lineal descendent);
- Information a probate court must send to ODH after an adoption finalization;
- A birth parent authorizing the agency or attorney arranging the adoption to give materials to the adoptive parent or adoptee;¹⁷
- The maintenance and release of the adoption record by ODH;
- Allowing the ODH Director to adopt new rules regarding the maintenance and release of adoption records under the new system.

¹⁷ Current law specifies that materials, photographs, or the birth parent's name may be provided. The bill specifies that only "materials" may be provided but does not define "materials."

OPEN ADOPTIONS

Open adoption agreements

(R.C. 3107.23, 3107.24, 3107.25, and 3107.26)

Background

Currently, a birth parent and an adoptive parent can enter into a nonbinding open adoption. Generally, an open adoption allows the birth parent to retain some degree of contact with his or her child after the prospective adoptive parent adopts the child. However, a nonbinding open adoption is available only to those parents that have voluntarily placed their children for adoption; Ohio law does not allow a parent who has had his or her parental rights involuntarily terminated by a court, including in an abuse, neglect, or dependency case, to enter into a nonbinding open adoption.

The bill, generally

The bill removes the nonbinding open adoption as an option for birth and adoptive parents and creates instead the "post-adoption contact agreement." The major differences are that the post-adoption contact agreement is (1) extended to certain birth family members, (2) available to parents who have had their parental rights involuntarily terminated by a court, and (3) is enforceable. These differences and other changes are discussed below.

Voluntary adoptions

Under current law, when a birth parent voluntarily chooses to place his or her child for adoption, an agency or attorney arranging the adoptive placement must inform the birth parent and the prospective adoptive parent that they may enter into a nonbinding open adoption. The birth parent may ask the agency or attorney arranging the child's adoptive placement to provide for an open adoption with terms acceptable to the birth parent and the prospective adoptive parent. The agency or attorney may refuse to provide for the open adoption and instead offer to refer the birth parent to another agency or attorney willing to provide for the open adoption.

Under the bill, other birth family members, not just the birth parents, are permitted to enter into a post-adoption contact agreement. The bill defines "birth family member" as a parent, grandparent, sibling, aunt, or uncle, related to the child by birth. If a birth family member is related to a birth parent that has voluntarily placed his or her child for adoption, the bill (1) requires the agency or attorney to inform the child's birth parent and prospective adoptive parent that the prospective adoptive parent and a birth family member may enter into a post-

adoption contact agreement, (2) allows birth family members to ask for a post-adoption contact agreement, and (3) requires the agency or attorney working with the birth family member, if the agency or attorney refuses to provide for a post-adoption contact agreement, to refer the birth family member to another agency or attorney willing to provide for the post-adoption contact agreement.

Involuntary adoptions

Current Ohio law does not allow a parent who has had his or her parental rights involuntarily terminated by the court, including in an abuse, neglect, or dependency case, to enter into a nonbinding open adoption.

Generally, the bill allows a birth parent in an involuntary case to enter into a post-adoption contact agreement. Similar to voluntary adoptions, the bill requires an agency or attorney arranging a child's adoptive placement to inform the child's birth parent and the prospective adoptive parent¹⁸ that the prospective adoptive parent and a birth family member may enter into a post-adoption contact agreement.

However, unlike voluntary adoptions, if a birth family member in an involuntary adoption seeks to enter into a post-adoption contact agreement, the agency is required to assess the birth family member's suitability for the agreement. If the birth family member is suitable to enter into the agreement and no adoptive parent exists for the child, the birth family member may, at the discretion of the agency, maintain contact with the child if the agency's motion for permanent custody is granted. If no adoptive parent exists for the child, all parties must, to the extent possible, comply with the requirements for post-adoption contact agreements.

The bill also requires the agency to make a good faith attempt to locate an adoptive parent who is willing to enter into a post-adoption contact agreement with the birth family member in an involuntary adoption unless the child's foster caregiver is adopting the child. If an adoptive parent is identified, the agency must notify the adoptive parent of the birth family member's desire to enter into a post-adoption contact agreement. However, the adoptive parent's wishes prevail regarding the post-adoption contact agreement.

Terms of open adoptions (voluntary and involuntary adoptions)

An open adoption may not provide for the birth parent to share with the adoptive parent parental control and authority over the child placed for adoption or

¹⁸ A prospective adoptive parent for the child may not immediately exist in an involuntary adoption.

in any manner limit the adoptive parent's full parental control and authority over the adopted child. The bill stipulates that a post-adoption contact agreement may not provide for a birth family member to share control and authority over the child with the adoptive parent. Unlike current law governing open adoptions, however, the bill does not prohibit a post-adoption contact agreement from limiting the adoptive parent's full parental control and authority over the child.

Whereas current law prohibits an open adoption from denying the adoptive parent, child, birth parent, birth sibling, or other relative access to information available under the state's adoption law, the bill provides that a post-adoption contact agreement may not deny the adoptive parent materials accessible under the bill. (See "**ACCESS TO ADOPTION RECORDS**" above.)

The bill requires a post-adoption contact agreement to include both of the following:

(1) Provisions that specify (a) the exchange of information between the parties, (b) the nature, frequency, and length of contact between the birth family member and the child, and (c) who may be permitted contact with the child;

(2) Acknowledgements that (a) the final decree or interlocutory order of adoption has specific effects,¹⁹ (b) the adoption decree can be appealed, (c) the post-adoption contact agreement can be enforced, modified, or terminated by the adoptive parents, enforced by the birth family member, or modified or terminated by the birth family member with the adoptive parent's approval, (d) if the parties do not agree regarding modification or termination of the agreement, or one party seeks enforcement of the agreement, the parties must make a good faith attempt to mediate or engage in another procedure for alternative dispute resolution prior to filing a motion for enforcing, modifying, or terminating the agreement, and (e) the

¹⁹ Continuing law unaffected by the bill provides that a final decree of adoption or interlocutory order of adoption that has become final has the following effects: (1) except with respect to the spouse of the person seeking to adopt the child and the spouse's relatives, to relieve the biological or other legal parents of the adoptee of all parental rights and responsibilities and terminate all legal relationships between the adoptee and the adoptee's relatives and (2) to create the relationship of parent and child between the petitioner and adoptee. However, if a parent of a child dies without the relationship of parent and child having been previously terminated and a spouse of the living parent (step parent) thereafter adopts the child, the child's rights from and through the deceased parent are not restricted or curtailed by the adoption. Also, if the relationship of parent and child has not been terminated between a parent and child and the spouse of the other parent adopts the child, a grandparent or relative's right to companionship or visitation is not restricted or curtailed. (R.C. 3107.15.)

agreement does not impair the ability of the adoptive parent to move within or outside of Ohio.

Probate court approval (voluntary and involuntary adoptions)

Currently, a probate court cannot refuse to approve a proposed placement or issue a final decree of adoption or interlocutory order²⁰ of adoption on the grounds that the birth parent and the prospective adoptive parent have entered into an open adoption unless the court issues a finding that the terms of the open adoption violate statutory restrictions or are not in the best interest of the child. The court cannot issue a final decree of adoption or interlocutory order of adoption that nullifies or alters the terms of an open adoption unless it issues a similar type of finding.

The bill eliminates the current provisions and instead prohibits a probate court from refusing a proposed adoptive placement or issuing a final decree or interlocutory order of adoption on the grounds that the birth family member and the prospective adoptive parent choose to enter into a post-adoption contact agreement. It requires the court to approve the post-adoption contact agreement upon motion of the parties if the agreement is in the best interest of the child. The court must provide the grounds for the best interest determination in the order approving the agreement.

Enforceability of open adoptions (voluntary and involuntary adoptions)

The bill eliminates a prohibition against an open adoption being binding or enforceable. Current law expressly states that the terms of an open adoption are voluntary and that a party to an open adoption may withdraw at any time. A probate court is required to issue an order barring a party to an open adoption from taking any action under the open adoption if the other party withdraws and requests that the probate court issue the order. The bill eliminates these provisions and instead requires a probate court to enforce, modify, or terminate a post-adoption contact agreement if (1) the party filing a motion for enforcement, modification, or termination produces evidence that the party made a good faith attempt to mediate or engage in another procedure for alternative dispute resolution before filing the motion, (2) the court determines that enforcement, modification, or termination is in the child's best interest, (3) the court considers the adoptive parents' wishes, and (4) the court considers the following factors:

²⁰ An interlocutory order of adoption is issued following an adoption hearing if the court concludes that the adoption should take place. It automatically becomes a final order on a date specified in the order unless vacated by the court for good cause (R.C. 3107.14). (See "**Finalization of interlocutory order**," below.)

- The outcome of the mediation or other alternative dispute resolution procedure;
- Whether there has been a substantial change in circumstances of any party since the post-adoption contact agreement was agreed upon and this change justifies enforcement, modification, or termination;
- The adopted child's wishes if the child is over ten years of age;
- Whether the parties have agreed to modification or termination;
- Evidence that enforcement, modification, or termination would be detrimental to the adopted child;
- Evidence that, due to a change in circumstances, enforcement would unduly burden one or more of the parties;
- Evidence that enforcement or modification would undermine the adoptive parent's parental authority.

OTHER ADOPTION PROVISIONS

Birth mother's living expenses

(R.C. 3107.055)

Under current law, an attorney, private noncustodial agency (PNA), private child placing agency (PCPA), petitioner (the prospective adoptive parent), or person acting on the petitioner's behalf may pay for specific expenses connected with a child's permanent surrender, placement, or adoption. Generally these expenses include physician or hospital expenses incurred by the birth mother or child around the time of the child's birth; attorney, agency, or court expenses related to permanent surrender, placement, or the adoption; the child's temporary routine maintenance and medical costs if the prospective adoptive parent refuses placement; guardian ad litem fees; and temporary foster care expenses. No other payments related to the permanent surrender, placement, or adoption, are permitted.

The bill adds the birth mother's living expenses to the list of approved payments connected with a child's permanent surrender, placement, or adoption. The living expenses must not exceed \$3,000 and must be incurred during pregnancy and up to two months after the child is born. Payments from the petitioner to the birth mother for living expenses must be made through the attorney or agency arranging the adoption.

Aligning adoption and foster home studies

(R.C. 3107.033 and 5103.03)

Generally, current law requires both prospective foster parents and prospective adoptive parents to undergo home studies to ascertain their suitability to foster or adopt a child.

The bill requires that any rules adopted by the Director of Job and Family Services regarding home studies align both the foster care and adoption home study content, time periods, and processes.

Prospective adoptive home visits

(R.C. 3107.101)

Current law requires the assessor providing placement or post-placement services in a prospective adoptive home to conduct a prospective adoptive home visit in that home not later than seven days after the child to be adopted is placed and every 30 days thereafter until a probate court issues a final decree of adoption.

The bill requires that the home visits be conducted monthly, rather than every 30 days.

Juvenile court jurisdiction

(R.C. 3107.06)

Under current law, a juvenile court must consent to an adoption before the probate court can grant certain adoption petitions. This occurs in situations where the child has a legal guardian or custodian and the legal guardian or custodian is *not* authorized by law or a court order to consent to the adoption.

The bill removes the juvenile court's jurisdiction in such cases.

When consent to adopt is not required of a parent

(R.C. 3107.07)

A parent's consent to the adoption of his or her child is not needed if a probate court finds that the parent has failed without justifiable cause to (1) communicate with his or her child or (2) provide for the maintenance and support of the child for at least one year prior to the filing of an adoption petition or placement of the child in the prospective adoptive home. Current law does not specify the evidentiary standard that the court must meet when making either of

these findings. The bill specifies that the court must make either of these findings by clear and convincing evidence.²¹

Finalization of interlocutory order

(R.C. 3107.14)

When a probate court holds a final adoption petition hearing, and the adoption is generally in the best interest of the child and all other relevant requirements have been met, the court may issue an interlocutory order of adoption instead of a final decree of adoption. An interlocutory order allows the court time for observation, investigation, and a further report on the adoptive home and must include a date on which the order automatically becomes final. Except in adoptions by foster parents or relatives, the automatic finalization date must be between six months and one year from the date the court issues the order (but can be sooner vacated for good cause).

The bill changes the date from which the automatic finalization date time period starts to the date the probate court issues the interlocutory order to the date the person to be adopted is placed in the adoptive home.

Disrupted adoptions

(R.C. 2151.361)

When an adoptive parent enters into an agreement with a public children services agency (PCSA) or PCPA to place his or her adopted child in the temporary custody of the agency, a juvenile court may issue an order that requires the adoptive parent to pay for the care, support, maintenance, and education of the child while in temporary custody. The court must consider all of the following factors when deciding whether to issue such an order:

- The ability of the parents to pay for the care, support, maintenance, and education of the child;
- The chances for reunification of the parents and child;
- Whether issuing the order will encourage or undermine the reunification of the parents and child;

²¹ According to Black's Law Dictionary, 7th ed. (1999), p. 577, "clear and convincing evidence" is evidence indicating that the thing to be proved is highly probable or reasonably certain.

- Whether the problem underlying the temporary custody agreement existed prior to the parents' adoption of the child and whether the parents were informed of the problem prior to that adoption;
- Whether the problem underlying the temporary custody agreement began after the parents' adoption of the child;
- Whether the parents have contributed to the child's problems;
- Whether the parents are part of the solution to the child's problems.

The bill adds that a juvenile court must consider the ability of the parents to meet the needs of all other children residing in the home when deciding whether to issue the order.

Adoption as an option

(R.C. 3313.6011, 3317.024, 5107.30, 5153.122, and 5153.123)

The bill requires all of the following to emphasize adoption as an option for unintended pregnancies:

- Instruction in venereal disease education that must be included in the curriculum of schools under the control of a board of education, governing board of an educational service center, or cooperative education school district;²²
- Graduation, reality, and dual-role skills (GRADS) programs that are designed to provide intervention and instruction to pregnant and parenting students in eligible school districts or joint vocational school districts (O.A.C. 3301-61-18(A)(2));
- The Learning, Earning, and Parenting Program designed to encourage pregnant or parenting teens participating in Ohio Works First to attend and complete high school or the equivalent (O.A.C. 5101:1-23-50).

The bill also requires PCSA caseworker training and PCSA caseworker supervisor training to include courses on educating pregnant or parenting persons on adoption as an option for unintended pregnancies.

²² A student's parent or guardian may request that the student be excused from the venereal disease education under current law (R.C. 3313.60(A)(5)(c)).

Child-Centered Recruitment Task Force

(Section 3)

The bill requires the Ohio Department of Job and Family Services (ODJFS) to establish a Child-Centered Recruitment Task Force. ODJFS must also provide the members with meeting space and administrative support. The Task Force is to consist of the ODJFS Director, adoption professionals, and at least one professional from a PCSA, PNA, and PCPA. One member of the Task Force is to represent an agency that has created, utilized, or is currently utilizing, child-centered recruitment. The members are to serve without compensation.

The Task Force must compile all effective procedures, models, and other relevant information regarding child-centered recruitment that PCSAs, PNAs, and PCPAs currently using child-centered recruitment utilize when seeking adoptive families for children in permanent custody. After compiling the procedures, models, or other relevant information, the Task Force must create a uniform child-centered recruitment model based on the information compiled. The model must include recommendations for finding an adoptive family for children who have been in the custody of a PCSA for at least one year and children who are nine years of age or older, in the custody of PCSAs, and do not have potential adoptive families identified. Not later than December 1, 2008, the Task Force must disseminate the model to all PCSAs, PNAs, and PCPAs in Ohio. Upon dissemination of the uniform child-centered recruitment model, the Task Force is to cease to exist.

CHILD WELFARE PROVISIONS

Dispositions for an abused, neglected, or dependent child

Current law allows a juvenile court to make one of several dispositions for a child who is adjudicated an abused, neglected, or dependent child.

Temporary custody

(R.C. 2151.353, 2151.413, and 2151.415)

One of the dispositions that a juvenile court may make in the case of an adjudicated abused, neglected, or dependent child is to place the child in the temporary custody of (1) a PCSA, (2) a PCPA, (3) either parent or a relative, (4) a probation officer for placement in a certified foster home, or (5) any other court-approved home. The temporary custody order expires one year after either the date that the complaint was filed or the date the child was first placed into shelter care, whichever is earlier. However, the temporary custody order continues in effect beyond that time if the PCSA or PCPA that has temporary custody of the

child files a motion for the court to make a new disposition regarding the child. In this case, the temporary custody order does not terminate until the court makes the new disposition.

One of the new dispositions the court may make is to extend the temporary custody order for an additional six months. The temporary custody order may then be extended another six months, for a total of one year.

The bill prohibits the court from extending the original temporary custody order beyond two years from the date the complaint was filed or when the child was placed into shelter care, whichever is earlier and regardless of any previous extensions.

Permanent custody

(R.C. 2151.353, 2151.414, 2151.415, and 2151.417)

Permanent custody is another disposition a juvenile court may make in a case of an adjudicated abused, neglected, or dependent child.

Factors in awarding permanent custody. If a juvenile court determines, by clear and convincing evidence, at a permanent custody hearing that one or multiple specific factors exist as to each of a child's parents, the court must enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent.

Whether a parent, under current Ohio law, has had parental rights involuntarily terminated with respect to a sibling of a child is among the factors that require a juvenile court to enter such a finding. The bill provides that the involuntary termination does not have to have occurred under current Ohio law but may also have occurred under an existing or former law in Ohio, any other state, or the United States that is substantially equivalent. The bill adds that the parent must have failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

Mandatory permanent custody. Currently, if a PCSA or PCPA files for permanent custody of a child, a juvenile court may grant, modify, or dispose of the motion for permanent custody. However, if all of the following circumstances exist, the bill requires the court to place such a child in the permanent custody of a PCSA or PCPA:

- The court determines by clear and convincing evidence that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and certain factors exist with respect to the parents;²³
- The child has been in an agency's custody for two years or longer and no longer qualifies for temporary custody;
- The child does not meet the requirements for a planned permanent living arrangement;
- Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

Length of residential or institutional care

(R.C. 2151.353, 2151.415, and 2151.417)

Another disposition a juvenile court may make is to place the child in a planned permanent living arrangement with a PCSA or PCPA. The court may place the child in a planned permanent living arrangement if (1) the agency makes such a request, (2) the court finds by clear and convincing evidence that such an arrangement is in the best interest of the child, and (3) certain circumstances exist. One of the circumstances is that the child is unable to function in a family-like setting because of physical, mental, or psychological problems or needs and must remain in residential or institutional care.

The bill narrows this circumstance by specifying that the child must remain in residential or institutional care "for a significant period of time beyond the date of the child's dispositional hearing."

²³ The following are examples of the factors: (1) the parents' failure to remedy the conditions that caused the child to be placed outside the child's home, (2) the parents have a severe mental illness, chronic emotional illness, mental retardation, physical disability, or chemical dependency, (3) the parents abused or neglected the child after the original complaint alleging abuse was filed, (4) the parents' lack commitment toward the child, and (5) the parents are incarcerated for an offense against the child or a sibling of the child. The same factors apply in current law regarding permanent custody dispositions.

COMMENT

In recent years, other states have enacted laws to allow access to adoption records that were previously closed to adoptees and their families. Some of these laws have been subject to litigation and the issues raised in those cases, may arise in Ohio if a law is enacted to allow access to adoption records in this manner. Generally, the issues raised in other states include (1) the impairment of a contractual obligation between the state and birth parents (this would particularly apply to adoptions arranged in Ohio since 1996), (2) the passing of retroactive law (which is prohibited by the Ohio Constitution), (3) the right of familial and reproductive privacy, and (4) the right to nondisclosure of private information.

HISTORY

ACTION	DATE
Introduced	02-20-07

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