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Bill Analysis
Legislative Service Commission

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127th General Assembly

(As Reported by S. Health, Human Services, and Aging)

Reps. Brinkman, Yuko, Hottinger, Huffman, Webster, Jones, DeBose, Letson, B. Williams, Wachtmann, R. Hagan, Adams, Aslanides, Batchelder, Blessing, Boyd, Brinkman, Budish, Celeste, Chandler, Coley, Collier, Combs, Daniels, DeGeeter, Dodd, Dolan, Domenick, Driehaus, Evans, Flowers, Gardner, Gibbs, Goyal, J. Hagan, Heard, Hite, Mallory, Mandel, J. McGregor, Mecklenborg, Newcomb, Oelslager, Patton, Raussen, Sayre, Schindel, Schlichter, Schneider, Setzer, Slesnick, Stebelton, J. Stewart, Uecker, White, Widowfield, Zehringer

Sens. Wagoner, Morano, Padgett, D. Miller, Seitz

BILL SUMMARY

ADOPTION PROVISIONS

- Adds the birth mother's living expenses (up to \$3,000) incurred during pregnancy and up to 60 days 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.
- Decreases from 12 months to 6 months the amount of time a child must reside with a foster caregiver before the foster caregiver may submit an application to arrange for an adoption of the child by the foster caregiver.
- 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.
- Revises the condition under which a parent's consent is not needed for an adoption on the basis of failing for a period of one year to communicate with the child or provide for the maintenance and support for the child to

require that the court find, by clear and convincing evidence, that the parent failed to provide more than de minimis contact with the child or to provide for the maintenance and support of the child.

- Requires the clerk of courts to send a notice to a parent who is alleged in a petition for adoption to have failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor, with statutorily specified language stating the legal effect of the adoption, if granted, and the parent's right to contest the adoption.
- 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 from 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 or the child is committed under the Juvenile Law.
- Permits a birth parent to obtain nonidentifying information about the adopted person or adoptive parent only if the adopted person is at least 18 years old.
- Clarifies the definition of "nonidentifying information" as it relates to birth parents and adoptive parents.
- 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.

CHILD WELFARE PROVISIONS

- 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 date the child was placed in shelter care.

- 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 certain 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

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 (prospective adoptive parent), or person

acting on the petitioner's behalf may only 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 cannot exceed \$3,000 and must be incurred during pregnancy and up to 60 days 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, by June 1, 2009, any rules adopted by the Director of Job and Family Services regarding home studies align 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.

Foster caregiver adoption of child already in foster caregiver's care

(R.C. 3107.012 and 3107.031)

Under current law, a foster caregiver may apply to obtain the services of an agency to arrange an adoption for the foster caregiver if the foster caregiver seeks to adopt the foster caregiver's foster child who has resided in the foster caregiver's home for at least 12 months prior to the date the foster caregiver submits the application to the agency. The bill reduces the amount of time that the foster child must reside in the foster caregiver's home prior to application from 12 months to 6 months.

Juvenile court consent required

(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 situation occurs in situations in which the juvenile court has jurisdiction to determine custody of the minor, if 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 need for the juvenile court's consent 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. Under the bill, a parent's consent to adoption will not be needed if the court finds, by clear and convincing evidence, that the parent has failed, without justifiable cause, to provide more than de minimis contact with the child or to provide for the maintenance and support of the child during that one-year period.

Notice to birth parent of filing of petition for adoption

(R.C. 3107.11(B))

Under current law, after the filing of a petition to adopt a minor, the court must fix a time and place for hearing the petition. This hearing may take place at any time more than 30 days after the date on which the minor is placed in the home of the petitioner. If it is alleged in the adoption petition that a parent of the

child 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, the court must give notice of the filing of the petition to that parent.

The bill requires the clerk of courts to send a notice to a parent who is alleged in a petition for adoption to have failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor with the following language, in boldface type and all capital letters:

A FINAL DECREE OF ADOPTION, IF GRANTED, WILL RELIEVE YOU OF ALL PARENTAL RIGHTS AND RESPONSIBILITIES, INCLUDING THE RIGHT TO CONTACT THE MINOR, AND, EXCEPT WITH RESPECT TO A SPOUSE OF THE ADOPTION PETITIONER AND RELATIVES OF THAT SPOUSE, TERMINATE ALL LEGAL RELATIONSHIPS BETWEEN THE MINOR AND YOU AND THE MINOR'S OTHER RELATIVES, SO THAT THE MINOR THEREAFTER IS A STRANGER TO YOU AND THE MINOR'S FORMER RELATIVES FOR ALL PURPOSES. IF YOU WISH TO CONTEST THE ADOPTION, YOU MUST FILE AN OBJECTION TO THE PETITION WITHIN FOURTEEN DAYS AFTER PROOF OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING IS GIVEN TO YOU. IF YOU WISH TO CONTEST THE ADOPTION, YOU MUST ALSO APPEAR AT THE HEARING. A FINAL DECREE OF ADOPTION MAY BE ENTERED IF YOU FAIL TO FILE AN OBJECTION TO THE ADOPTION PETITION OR APPEAR AT THE HEARING.

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. It must include a date on which the order automatically becomes final. Except in adoptions by foster parents or relatives, this 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 start of the time period of 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 or the child is committed under the Juvenile Law, a juvenile court may issue an order that requires the adoptive parent to pay for the care, support, maintenance, and education of the child. The court must consider a number of factors, including, the ability of the parents to pay for the care, support, maintenance, and education of the child, when deciding whether to issue such an order. The bill requires that the court also 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.

Requesting nonidentifying adoption information

(R.C. 3107.60 and 3107.66)

Current law allows a birth parent of an adopted person, a birth sibling over age 18 years, or a birth family member of a deceased birth parent to submit a written request to the agency or attorney who arranged the adopted person's adoption, or the probate court that finalized the adoption, for nonidentifying information about the adopted person or adoptive parent contained in the agency's, attorney's, or court's adoption records. Unless the agency or attorney has permanently ceased to arrange adoptions, the agency, attorney, or court must provide the birth parent, birth sibling, or birth family member the information sought within a reasonable amount of time and may charge a reasonable fee for providing the information.¹

¹ An agency or attorney that has permanently ceased to arrange adoptions is not subject to this requirement. The records of such an agency or attorney are transferred to the probate court, which may retain the records or transfer the records to another person or governmental entity. Instead, the court, person, or other governmental entity that holds the records is subject to this requirement. (R.C. 3107.66 and 3107.67.)

The bill specifies that a birth parent may request the nonidentifying information only if the adopted person is at least 18 years old.

Under current law, "identifying information" means any of the following with regard to a person: first name, last name, maiden name, alias, Social Security number, address, telephone number, place of employment, number used to identify the person for the purpose of the Statewide Education Management Information System, and any other number federal or state law requires or permits to be used to identify the person. (R.C. 3107.01.)

Also, under current law, "nonidentifying information" means any information that is not identifying information, and current law explicitly specifies that the following is "nonidentifying information": (1) a birth parent's age at the time the birth parent's child is adopted, (2) the medical and genetic history of the birth parents, (3) the age, sex, and medical and genetic history of an adopted person's birth sibling and extended family members, (4) a person's heritage and ethnic background, educational level, general physical appearance, religion, occupation, and cause of death, and (5) any information that may be included in a social and medical history related to the adoption.

The bill adopts a new definition of "nonidentifying information." In relation to a *birth* parent, the bill defines "nonidentifying information" as it is under current law. It is any information that is not identifying information, including all of the following: (1) a birth parent's age at the time the birth parent's child is adopted, (2) the medical and genetic history of the birth parents, (3) the age, sex, and medical and genetic history of an adopted person's birth sibling and extended family members, (4) a person's heritage and ethnic background, educational level, general physical appearance, religion, occupation, and cause of death, and (5) any information that may be included in a social and medical history related to the adoption.

In relation to an *adoptive* parent, the bill defines "nonidentifying information" as any information that is not identifying information, including all of the following: (1) an adoptive parent's age at the time of adoption, (2) an adoptive sibling's age at the time of adoption, (3) the heritage, ethnic background, religion, educational level, and occupation of the adoptive parent, and (4) general information known about the well-being of the adoptee before and after the adoption.

The bill also authorizes an agency, attorney, person, or other governmental entity to, on a case-by-case basis, classify any nonidentifying information relating to an adoptive parent as identifying information and deny a request made for that information if the agency, attorney, court, person, or other governmental entity

determines that the information could lead to the identification of the adoptive parent.

Adoption as an option

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

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;²
- 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;
- 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.

The bill also requires PCSA caseworker training to include courses with content including permanency strategies, concurrent planning, and adoption as an option for unintended pregnancies.

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 or utilized, or is currently utilizing, child-centered recruitment. The members are to serve without compensation.

² 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)).

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 31, 2009, the Task Force must disseminate the model to all PCSAs, PNAs, and PCPAs in Ohio. On 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 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 in 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 in shelter care, whichever is earlier and regardless of any previous extensions.

Permanent custody

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

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. Under this criterion under the bill, the parent also must have failed to provide clear and convincing evidence 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. 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;
- 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 and 2151.415)

Another disposition a juvenile court may make is to place the abused, neglected, or dependent 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 certain circumstances exist, one of which 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 specifies that this circumstance is that the child must remain in residential or institutional care "now and for the foreseeable future beyond the date of the child's dispositional hearing."

HISTORY

ACTION	DATE
Introduced	02-20-07
Reported, H. Health	05-15-08
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Reported, S. Health, Human Services & Aging	12-11-08

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