



Ohio Legislative Service Commission

Bill Analysis

Laurel Mannion

Am. Sub. H.B. 92 129th General Assembly (As Passed by the House)

Reps. Martin and Beck, Derickson, Boose, Blair, Pillich, Okey, Murray, Slesnick, Maag, Johnson, Letson, Szollosi, McKenney, Bubp, Stinziano, Huffman, Coley, J. Adams, Anielski, Antonio, Baker, Barnes, Blessing, Brenner, Buchy, Burke, Butler, Carey, Carney, Celeste, Combs, DeGeeter, Dovilla, Driehaus, Fedor, Fende, Foley, Gardner, Garland, Gentile, Gerberry, Gonzales, Goyal, Grossman, Hackett, C. Hagan, R. Hagan, Hall, Heard, Hottinger, Luckie, Lundy, Mallory, McClain, Mecklenborg, Milkovich, Newbold, O'Brien, Patmon, Peterson, Phillips, Ramos, Reece, Roegner, Rosenberger, Ruhl, Schuring, Sears, Slaby, Sprague, Stebelton, Thompson, Uecker, Wachtmann, Weddington, Winburn, Young, Yuko, Batchelder

BILL SUMMARY

- Permits the adoption of an adult if the adult is the child of the petitioner's spouse, had established a kinship caregiver relationship with the petitioner as a minor, or was at the time of the adult's 18th birthday in a planned permanent living arrangement with a public children services agency or private child placing agency, and the adult consents to the adoption.
- Allows the adoption of an adult if the adult is totally or permanently disabled instead of totally and permanently disabled as under current law.
- Extends to a grandparent's husband or wife the exemption from certain requirements for adoption placement.

CONTENT AND OPERATION

Adoption of adult

When an adult may be adopted

The bill allows the adoption of an adult under any of the following circumstances:¹

¹ R.C. 3107.02(B)(1), (3), (4), and (5).

(1) If the adult is the child of the spouse of the person who petitions for the adoption, and the adult consents to the adoption;

(2) If the adult is totally *or* permanently disabled;

(3) If the adult had established a *kinship caregiver* relationship with the petitioners as a minor, and the adult consents to the adoption;

(4) If the adult was, at the time of the adult's 18th birthday, in a *planned permanent living arrangement* with a public children services agency or a private child placing agency, and the adult consents to the adoption.

Under the bill, an adult who consents to an adoption as described above in paragraph (4) must provide the court with the name and contact information of the public children services agency or private child placing agency that had a planned permanent living arrangement with that adult. The petitioner must request verification from the agency as to whether the adult was or was not in a planned permanent living arrangement with that agency at the time of the adult's 18th birthday and provide the verification to the court.²

Under existing law, an adult may be adopted under any of the following conditions:³

(1) If the adult is totally and permanently disabled;

(2) If the adult is determined to be a mentally retarded person ("a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period"⁴);

(3) If the adult had established a child-foster caregiver or child-stepparent relationship with the petitioners as a minor, and the adult consents to the adoption;

(4) If the adult was, at the time of the adult's 18th birthday, in the permanent custody of a public children services agency or a private child placing agency, and the adult consents to the adoption.

Definitions

The bill defines the following terms for purposes of its provisions:

² R.C. 3107.02(E).

³ R.C. 3107.02(B).

⁴ R.C. 5123.01(N).

"Kinship caregiver" means any of the following who is 18 years of age or older and is caring for a child in place of the child's parents:⁵

(1) The following individuals related by blood or adoption to the child: (a) grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great," (b) siblings, (c) aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand," (d) first cousins and first cousins once removed, (2) stepparents and stepsiblings of the child, (3) spouses and former spouses of individuals named in (1) and (2) in this paragraph, (4) a legal guardian of the child, or (5) a legal custodian of the child.

"Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply: (1) the court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights, and (2) the order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.⁶

The bill also defines "permanent custody" as used in existing law described above, which allows the adoption of an adult if the adult was, at the time of the adult's 18th birthday, in the permanent custody of a public children services agency or a private child placing agency, and the adult consents to the adoption. "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.⁷

Exemption from adoption placement requirements

Current law provides that certain adoption placement requirements described below do not apply to an adoption by a stepparent, a grandparent, or a guardian. The bill extends this exemption to a grandparent's husband or wife.⁸

Following are the requirements under current law, not changed by the bill, regarding the placement of a child for adoption:⁹

⁵ R.C. 3107.02(F)(1) by reference to R.C. 5101.85.

⁶ R.C. 3107.02(F)(3) by reference to R.C. 2151.011(B)(37).

⁷ R.C. 3107.02(F)(3) by reference to R.C. 2151.011(B)(30).

⁸ R.C. 5103.16(E).

⁹ R.C. 5103.16(C) and (D).

--Any agreement or understanding to transfer or surrender the legal rights, powers, or duties of the legal parent or parents and place a child with a person seeking to adopt the child must be construed to contain a promise by the person seeking to adopt the child to pay specified expenses under the Adoption Law and, if the person seeking to adopt the child refuses to accept placement of the child, to pay the temporary costs of routine maintenance and medical care for the child for a specified period of time.

--Placement of a child for adoption is prohibited unless it is made by a public children services agency, an institution or association certified by the Department of Job and Family Services to place children for adoption, or custodians in another state or foreign country, or unless all of the following criteria are met: (1) prior to the placement and receiving of the child, the child's parent or parents personally have applied to, and appeared before, the appropriate probate court for approval of the proposed placement and have filed with the court a signed, written statement showing that they are aware of their right to contest the adoption decree subject to the limitations under the Adoption Law, (2) the court ordered an independent home study of the proposed placement to be conducted under the Adoption Law, and after completion of the study, the court determined that the proposed placement is in the child's best interest, and (3) the court has approved the proposed placement.

--In determining whether a custodian has authority to place children for adoption under a foreign country's laws, the probate court must determine whether the child has been released for adoption pursuant to the laws of the country in which the child resides, and if the release is in a form that satisfies federal law's immigration requirements.

--If the parent or parents of the child are deceased or have abandoned the child, the application for approval of the proposed adoptive placement may be brought by the relative seeking to adopt the child, or by the department, board, or organization having legal custody of the child, in the appropriate probate court, with notice of hearing.

--The consent to placement, surrender, or adoption executed by a minor parent before a judge or an authorized deputy or referee of the probate court is as valid as though executed by an adult. A consent given before an employee of a licensed children services agency is equally effective if the consent also is accompanied by an affidavit executed by the witnessing employee that the legal rights of the parents have been fully explained to the parents, prior to the execution of any consent, and that the action was done after the birth of the child.

--If the court approves a placement, the prospective adoptive parent with whom the child is placed has care, custody, and control of the child pending further order of the court.

HISTORY

ACTION

DATE

Introduced	02-08-11
Reported, H. Judiciary & Ethics	03-23-11
Passed House (97-0)	04-05-11

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