



Sen. A. J. Wilhelmi

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LRB097 07861 AJ0 55213 a

1 AMENDMENT TO HOUSE BILL 1699

2 AMENDMENT NO. _____. Amend House Bill 1699 on page 1, by
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Adoption Act is amended by changing
5 Sections 5, 8, 9, 10, and 11 as follows:

6 (750 ILCS 50/5) (from Ch. 40, par. 1507)

7 Sec. 5. Petition, contents, verification, filing.

8 A. A proceeding to adopt a child, other than a related
9 child, shall be commenced by the filing of a petition within 30
10 days after such child has become available for adoption,
11 provided that such petition may be filed at a later date by
12 leave of court upon a showing that the failure to file such
13 petition within such 30 day period was not due to the
14 petitioners' culpable negligence or their wilful disregard of
15 the provisions of this Section. In the case of a child born
16 outside the United States or a territory thereof, if the

1 prospective adoptive parents of such child have been appointed
2 guardians of such child by a court of competent jurisdiction in
3 a country other than the United States or a territory thereof,
4 such parents shall file a petition as provided in this Section
5 within 30 days after entry of the child into the United States.
6 A petition to adopt an adult or a related child may be filed at
7 any time. A petition for adoption may include more than one
8 person sought to be adopted.

9 B. A petition to adopt a child other than a related child
10 shall state:

11 (a) The full names of the petitioners and, if minors,
12 their respective ages;

13 (b) The place of residence of the petitioners and the
14 length of residence of each in the State of Illinois
15 immediately preceding the filing of the petition;

16 (c) When the petitioners acquired, or intend to
17 acquire, custody of the child, and the name and address of
18 the persons or agency from whom the child was or will be
19 received;

20 (d) The name, the place and date of birth if known, and
21 the sex of the child sought to be adopted;

22 (e) The relationship, if any, of the child to each
23 petitioner;

24 (f) The names, if known, and the place of residence, if
25 known, of the parents; and whether such parents are minors,
26 or otherwise under any legal disability. The names and

1 addresses of the parents shall be omitted and they shall
2 not be made parties defendant to the petition if (1) the
3 rights of the parents have been terminated by a court of
4 competent jurisdiction, or (2) ~~if~~ the child has been
5 surrendered to an agency, or (3) ~~if~~ the parent or parents
6 have been served with the notice provided in Section 12a of
7 this Act and said parent or parents have filed a disclaimer
8 of paternity as therein provided or have failed to file
9 such declaration of paternity or a request for notice as
10 provided in said Section, or (4) the parent is a putative
11 father or legal father of the child who has waived his
12 parental rights by signing a waiver as provided in
13 subsection S of Section 10;

14 (g) If it is alleged that the child has no living
15 parent, then the name of the guardian, if any, of such
16 child and the court which appointed such guardian;

17 (h) If it is alleged that the child has no living
18 parent and that no guardian of such child is known to
19 petitioners, then the name of a near relative, if known,
20 shall be set forth, or an allegation that no near relative
21 is known and on due inquiry cannot be ascertained by
22 petitioners;

23 (i) The name to be given the child or adult;

24 (j) That the person or agency, having authority to
25 consent under Section 8 of this Act, has consented, or has
26 indicated willingness to consent, to the adoption of the

1 child by the petitioners, or that the person having
2 authority to consent is an unfit person and the ground
3 therefor, or that no consent is required under paragraph
4 (f) of Section 8 of this Act;

5 (k) Whatever orders, judgments or decrees have
6 heretofore been entered by any court affecting (1) adoption
7 or custody of the child, or (2) the adoptive, custodial or
8 parental rights of either petitioner, including the prior
9 denial of any petition for adoption pertaining to such
10 child, or to the petitioners, or either of them.

11 C. A petition to adopt a related child shall include the
12 information specified in sub-paragraphs (a), (b), (d), (e),
13 (f), (i) and (k) of paragraph B and a petition to adopt an
14 adult shall contain the information required by sub-paragraphs
15 (a), (b) and (i) of paragraph B in addition to the name, place,
16 date of birth and sex of such adult.

17 D. The petition shall be verified by the petitioners.

18 E. Upon the filing of the petition the petitioners shall
19 furnish the Clerk of the Court in which the petition is pending
20 such information not contained in such petition as shall be
21 necessary to enable the Clerk of such Court to complete a
22 certificate of adoption as hereinafter provided.

23 F. A petition for standby adoption shall conform to the
24 requirements of this Act with respect to petition contents,
25 verification, and filing. The petition for standby adoption
26 shall also state the facts concerning the consent of the

1 child's parent to the standby adoption. A petition for standby
2 adoption shall include the information in paragraph B if the
3 petitioner seeks to adopt a child other than a related child. A
4 petition for standby adoption shall include the information in
5 paragraph C if the petitioner seeks to adopt a related child or
6 adult.

7 (Source: P.A. 91-357, eff. 7-29-99; 91-572, eff. 1-1-00.)

8 (750 ILCS 50/8) (from Ch. 40, par. 1510)

9 Sec. 8. Consents to adoption and surrenders for purposes of
10 adoption.

11 (a) Except as hereinafter provided in this Section consents
12 or surrenders shall be required in all cases, unless the person
13 whose consent or surrender would otherwise be required shall be
14 found by the court:

15 (1) to be an unfit person as defined in Section 1 of
16 this Act, by clear and convincing evidence; or

17 (2) not to be the biological or adoptive father of the
18 child; or

19 (3) to have waived his parental rights to the child
20 under Section 12a or 12.1 or subsection S of Section 10 of
21 this Act; or

22 (4) to be the parent of an adult sought to be adopted;
23 or

24 (5) to be the father of the child as a result of
25 criminal sexual abuse or assault as defined under Article

1 12 of the Criminal Code of 1961; or

2 (6) to be the father of a child who:

3 (i) is a family member of the mother of the child,
4 and the mother is under the age of 18 at the time of
5 the child's conception; for purposes of this
6 subsection, a "family member" is a parent,
7 step-parent, grandparent, step-grandparent, sibling,
8 or cousin of the first degree, whether by whole blood,
9 half-blood, or adoption, as well as a person age 18 or
10 over at the time of the child's conception who has
11 resided in the household with the mother continuously
12 for at least one year; or

13 (ii) is at least 5 years older than the child's
14 mother, and the mother was under the age of 17 at the
15 time of the child's conception, unless the mother and
16 father voluntarily acknowledge the father's paternity
17 of the child by marrying or by establishing the
18 father's paternity by consent of the parties pursuant
19 to the Illinois Parentage Act of 1984 or pursuant to a
20 substantially similar statute in another state.

21 A criminal conviction of any offense pursuant to
22 Article 12 of the Criminal Code of 1961 is not required.

23 (b) Where consents are required in the case of an adoption
24 of a minor child, the consents of the following persons shall
25 be sufficient:

26 (1) (A) The mother of the minor child; and

1 (B) The father of the minor child, if the father:

2 (i) was married to the mother on the date of
3 birth of the child or within 300 days before the
4 birth of the child, except for a husband or former
5 husband who has been found by a court of competent
6 jurisdiction not to be the biological father of the
7 child; or

8 (ii) is the father of the child under a
9 judgment for adoption, an order of parentage, or an
10 acknowledgment of parentage or paternity pursuant
11 to subsection (a) of Section 5 of the Illinois
12 Parentage Act of 1984; or

13 (iii) in the case of a child placed with the
14 adopting parents less than 6 months after birth,
15 openly lived with the child, the child's
16 biological mother, or both, and held himself out to
17 be the child's biological father during the first
18 30 days following the birth of the child; or

19 (iv) in the case of a child placed with the
20 adopting parents less than 6 months after birth,
21 made a good faith effort to pay a reasonable amount
22 of the expenses related to the birth of the child
23 and to provide a reasonable amount for the
24 financial support of the child before the
25 expiration of 30 days following the birth of the
26 child, provided that the court may consider in its

1 determination all relevant circumstances,
2 including the financial condition of both
3 biological parents; or

4 (v) in the case of a child placed with the
5 adopting parents more than 6 months after birth,
6 has maintained substantial and continuous or
7 repeated contact with the child as manifested by:

8 (I) the payment by the father toward the support of
9 the child of a fair and reasonable sum, according
10 to the father's means, and either (II) the father's
11 visiting the child at least monthly when
12 physically and financially able to do so and not
13 prevented from doing so by the person or authorized
14 agency having lawful custody of the child, or (III)
15 the father's regular communication with the child
16 or with the person or agency having the care or
17 custody of the child, when physically and
18 financially unable to visit the child or prevented
19 from doing so by the person or authorized agency
20 having lawful custody of the child. The subjective
21 intent of the father, whether expressed or
22 otherwise unsupported by evidence of acts
23 specified in this sub-paragraph as manifesting
24 such intent, shall not preclude a determination
25 that the father failed to maintain substantial and
26 continuous or repeated contact with the child; or

1 (vi) in the case of a child placed with the
2 adopting parents more than six months after birth,
3 openly lived with the child for a period of six
4 months within the one year period immediately
5 preceding the placement of the child for adoption
6 and openly held himself out to be the father of the
7 child; or

8 (vii) has timely registered with Putative
9 Father Registry, as provided in Section 12.1 of
10 this Act, and prior to the expiration of 30 days
11 from the date of such registration, commenced
12 legal proceedings to establish paternity under the
13 Illinois Parentage Act of 1984 or under the law of
14 the jurisdiction of the child's birth; or

15 (2) The legal guardian of the person of the child, if
16 there is no surviving parent; or

17 (3) An agency, if the child has been surrendered for
18 adoption to such agency; or

19 (4) Any person or agency having legal custody of a
20 child by court order if the parental rights of the parents
21 have been judicially terminated, and the court having
22 jurisdiction of the guardianship of the child has
23 authorized the consent to the adoption; or

24 (5) The execution and verification of the petition by
25 any petitioner who is also a parent of the child sought to
26 be adopted shall be sufficient evidence of such parent's

1 consent to the adoption.

2 (c) Where surrenders to an agency are required in the case
3 of a placement for adoption of a minor child by an agency, the
4 surrenders of the following persons shall be sufficient:

5 (1) (A) The mother of the minor child; and

6 (B) The father of the minor child, if the father:

7 (i) was married to the mother on the date of
8 birth of the child or within 300 days before the
9 birth of the child, except for a husband or former
10 husband who has been found by a court of competent
11 jurisdiction not to be the biological father of the
12 child; or

13 (ii) is the father of the child under a
14 judgment for adoption, an order of parentage, or an
15 acknowledgment of parentage or paternity pursuant
16 to subsection (a) of Section 5 of the Illinois
17 Parentage Act of 1984; or

18 (iii) in the case of a child placed with the
19 adopting parents less than 6 months after birth,
20 openly lived with the child, the child's
21 biological mother, or both, and held himself out to
22 be the child's biological father during the first
23 30 days following the birth of a child; or

24 (iv) in the case of a child placed with the
25 adopting parents less than 6 months after birth,
26 made a good faith effort to pay a reasonable amount

1 of the expenses related to the birth of the child
2 and to provide a reasonable amount for the
3 financial support of the child before the
4 expiration of 30 days following the birth of the
5 child, provided that the court may consider in its
6 determination all relevant circumstances,
7 including the financial condition of both
8 biological parents; or

9 (v) in the case of a child placed with the
10 adopting parents more than six months after birth,
11 has maintained substantial and continuous or
12 repeated contact with the child as manifested by:
13 (I) the payment by the father toward the support of
14 the child of a fair and reasonable sum, according
15 to the father's means, and either (II) the father's
16 visiting the child at least monthly when
17 physically and financially able to do so and not
18 prevented from doing so by the person or authorized
19 agency having lawful custody of the child or (III)
20 the father's regular communication with the child
21 or with the person or agency having the care or
22 custody of the child, when physically and
23 financially unable to visit the child or prevented
24 from doing so by the person or authorized agency
25 having lawful custody of the child. The subjective
26 intent of the father, whether expressed or

1 otherwise, unsupported by evidence of acts
2 specified in this sub-paragraph as manifesting
3 such intent, shall not preclude a determination
4 that the father failed to maintain substantial and
5 continuous or repeated contact with the child; or

6 (vi) in the case of a child placed with the
7 adopting parents more than six months after birth,
8 openly lived with the child for a period of six
9 months within the one year period immediately
10 preceding the placement of the child for adoption
11 and openly held himself out to be the father of the
12 child; or

13 (vii) has timely registered with the Putative
14 Father Registry, as provided in Section 12.1 of
15 this Act, and prior to the expiration of 30 days
16 from the date of such registration, commenced
17 legal proceedings to establish paternity under the
18 Illinois Parentage Act of 1984, or under the law of
19 the jurisdiction of the child's birth.

20 (d) In making a determination under subparagraphs (b) (1)
21 and (c) (1), no showing shall be required of diligent efforts by
22 a person or agency to encourage the father to perform the acts
23 specified therein.

24 (e) In the case of the adoption of an adult, only the
25 consent of such adult shall be required.

26 (Source: P.A. 93-510, eff. 1-1-04; 94-530, eff. 1-1-06.)

1 (750 ILCS 50/9) (from Ch. 40, par. 1511)

2 Sec. 9. Time for signing a waiver, ~~taking a consent~~, or
3 surrender.

4 A. A consent or a surrender signed ~~taken~~ not less than 72
5 hours after the birth of the child is irrevocable except as
6 provided in Section 11 of this Act.

7 B. No consent or surrender shall be signed ~~taken~~ within the
8 72 hour period immediately following the birth of the child.

9 C. A consent or a surrender may be signed by ~~taken from~~ the
10 father prior to the birth of the child. Such consent or
11 surrender shall be revoked if, within 72 hours after the birth
12 of the child, the father who gave such consent or surrender,
13 notifies in writing the person, agency or court representative
14 who acknowledged ~~took~~ the surrender or consent or any
15 individual representing or connected with such person, agency
16 or court representative of the revocation of the consent or
17 surrender.

18 D. Any consent or surrender signed ~~taken~~ in accordance with
19 paragraph C above which is not revoked within 72 hours after
20 the birth of the child is irrevocable except as provided in
21 Section 11 of this Act.

22 E. Consent may be given to a standby adoption by a parent
23 whose consent is required pursuant to Section 8 of this Act to
24 become effective when the consenting parent of the child dies
25 or that parent requests that the final judgment of adoption be

1 entered.

2 F. A waiver as provided in subsection S of Section 10 of
3 this Act may be signed by a putative father or legal father of
4 the child at any time prior to or after the birth of the child.

5 A waiver is irrevocable except as provided in Section 11 of
6 this Act.

7 (Source: P.A. 93-732, eff. 1-1-05.); and

8 on page 32, below line 25, by inserting the following:

9 "(750 ILCS 50/11) (from Ch. 40, par. 1513)

10 Sec. 11. Consents, surrenders, waivers, irrevocability.

11 (a) A consent to adoption or standby adoption by a parent,
12 including a minor, executed and acknowledged in accordance with
13 the provisions of Section 10 ~~9~~ of this Act, or a surrender of a
14 child by a parent, including a minor, to an agency for the
15 purpose of adoption shall be irrevocable unless it shall have
16 been obtained by fraud or duress on the part of the person
17 before whom such consent, surrender, or other document
18 equivalent to a surrender is acknowledged pursuant to the
19 provisions of Section 10 of this Act or on the part of the
20 adopting parents or their agents and a court of competent
21 jurisdiction shall so find. No action to void or revoke a
22 consent to or surrender for adoption, including an action based
23 on fraud or duress, may be commenced after 12 months from the
24 date the consent or surrender was executed. The consent or

1 surrender of a parent who is a minor shall not be voidable
2 because of such minority.

3 (a-1) A waiver signed by a putative or legal father,
4 including a minor, executed and acknowledged in accordance with
5 Section 10 of this Act, shall be irrevocable unless it shall
6 have been obtained by fraud or duress on the part of the
7 adopting parents or their agents and a court of competent
8 jurisdiction shall so find. No action to void a waiver may be
9 commenced after 12 months from the date the waiver was
10 executed. The waiver of a putative or legal father who is a
11 minor shall not be voidable because of such minority.

12 (b) The petitioners in an adoption proceeding are entitled
13 to rely upon a sworn statement of the biological mother of the
14 child to be adopted identifying the father of her child. The
15 affidavit shall be conclusive evidence as to the biological
16 mother regarding the facts stated therein, and shall create a
17 rebuttable presumption of truth as to the biological father
18 only. Except as provided in Section 11 of this Act, the
19 biological mother of the child shall be permanently barred from
20 attacking the proceeding thereafter. The biological mother
21 shall execute such affidavit in writing and under oath. The
22 affidavit shall be executed by the biological mother before or
23 at the time of execution of the consent or surrender, and shall
24 be retained by the court and be a part of the Court's files.
25 The form of affidavit shall be substantially as follows:

26 AFFIDAVIT OF IDENTIFICATION

1 I,, the mother of a (male or female)
2 child, state under oath or affirm as follows:

3 (1) That the child was born, or is expected to be born, on
4 (insert date), at, in the State of
5

6 (2) That I reside at, in the City or
7 Village of, State of

8 (3) That I am of the age of years.

9 (4) That I acknowledge that I have been asked to identify
10 the father of my child.

11 (5) (CHECK ONE)

12 I know and am identifying the biological father.

13 I do not know the identity of the biological father.

14 I am unwilling to identify the biological father.

15 (6A) If I know and am identifying the father:

16 That the name of the biological father is
17; his last known home address is
18; his last known work address is
19; and he is years of age; or he is
20 deceased, having died on (insert date) at, in
21 the State of

22 (6B) If I do not know the identity of the biological
23 father:

24 I do not know who the biological father is; the following
25 is an explanation of why I am unable to identify him:

26

1
2

3 (6C) If I am unwilling to identify the biological father:

4 I do not wish to name the biological father of the child
5 for the following reasons:

6
7
8

9 (7) The physical description of the biological father is:

10
11

12 (8) I reaffirm that the information contained in paragraphs
13 5, 6, and 7, inclusive, is true and correct.

14 (9) I have been informed and understand that if I am
15 unwilling, refuse to identify, or misidentify the biological
16 father of the child, absent fraud or duress, I am permanently
17 barred from attacking the proceedings for the adoption of the
18 child at any time after I sign a final and irrevocable consent
19 to adoption or surrender for purposes of adoption.

20 (10) I have read this Affidavit and have had the
21 opportunity to review and question it; it was explained to me
22 by; and I am signing it as my free
23 and voluntary act and understand the contents and the results
24 of signing it.

25 Dated (insert date).

26

1 Signature

2 Under penalties as provided by law under Section 1-109 of
3 the Code of Civil Procedure, the undersigned certifies that the
4 statements set forth in this Affidavit are true and correct.

5

6 Signature

7 (Source: P.A. 91-357, eff. 7-29-99; 91-572, eff. 1-1-00.)".