



Rep. Sara Feigenholtz

Filed: 5/4/2005

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LRB094 09016 LCB 45738 a

1 AMENDMENT TO SENATE BILL 511

2 AMENDMENT NO. _____. Amend Senate Bill 511 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Adoption Act is amended by changing
5 Sections 7 and 8 as follows:

6 (750 ILCS 50/7) (from Ch. 40, par. 1509)

7 Sec. 7. Process.

8 A. All persons named in the petition for adoption or
9 standby adoption, other than the petitioners and any party who
10 has previously either denied being a parent pursuant to Section
11 12a of this Act or whose rights have been terminated pursuant
12 to Section 12a of this Act, but including the person sought to
13 be adopted, shall be made parties defendant by name, and if the
14 name or names of any such persons are alleged in the petition
15 to be unknown such persons shall be made parties defendant
16 under the name and style of "All whom it may concern". In all
17 such actions petitioner or his attorney shall file, at the
18 office of the clerk of the court in which the action is
19 pending, an affidavit showing that the defendant resides or has
20 gone out of this State, or on due inquiry cannot be found, or
21 is concealed within this State, so that process cannot be
22 served upon him, and stating the place of residence of the
23 defendant, if known, or that upon diligent inquiry his place of
24 residence cannot be ascertained, the clerk shall cause

1 publication to be made in some newspaper published in the
2 county in which the action is pending. If there is no newspaper
3 published in that county, then the publication shall be in a
4 newspaper published in an adjoining county in this State,
5 having a circulation in the county in which such action is
6 pending. In the event there is service on any of the parties by
7 publication, the publication shall contain notice of pendency
8 of the action, the name of the person to be adopted and the
9 name of the parties to be served by publication, and the date
10 on or after which default may be entered against such parties.
11 Neither the name of petitioners nor the name of any party who
12 has either surrendered said child, has given their consent to
13 the adoption of the child, or whose parental rights have been
14 terminated by a court of competent jurisdiction shall be
15 included in the notice of publication. The Clerk shall also,
16 within ten (10) days of the first publication of the notice,
17 send a copy thereof by mail, addressed to each defendant whose
18 place of residence is stated in such affidavit. The certificate
19 of the Clerk that he sent the copies pursuant to this section
20 is evidence that he has done so. Except as provided in this
21 section pertaining to service by publication, all parties
22 defendant shall be notified of the proceedings in the same
23 manner as is now or may hereafter be required in other civil
24 cases or proceedings. Any party defendant who is of age of 14
25 years or upward may waive service of process by entering an
26 appearance in writing. The form to be used for publication
27 shall be substantially as follows: "ADOPTION NOTICE - STATE OF
28 ILLINOIS, County of, ss. - Circuit Court of County.
29 In the matter of the Petition for the Adoption of, a
30 ..male child. Adoption No. To-- (whom it may concern
31 or the named parent) Take notice that a petition was filed in
32 the Circuit Court of County, Illinois, for the adoption of
33 a child named, Now, therefore, unless you, and all
34 whom it may concern, file your answer to the Petition in the

1 action or otherwise file your appearance therein, in the said
2 Circuit Court of, County, Room,, in the City of
3, Illinois, on or before the day of, a default
4 may be entered against you at any time after that day and a
5 judgment entered in accordance with the prayer of said
6 Petition. Dated,, Illinois,, Clerk. (Name and
7 address of attorney for petitioners.)

8 B. A minor defendant who has been served in accordance with
9 this Section may be defaulted in the same manner as any other
10 defendant.

11 C. Notwithstanding any inconsistent provision of this or
12 any other law, and in addition to the notice requirements of
13 any law pertaining to persons other than those specified in
14 this subsection, the persons entitled to notice that a petition
15 has been filed under Section 5 of this Act shall include:

16 (a) any person adjudicated by a court in this State to
17 be the father of the child;

18 (b) any person adjudicated by a court of another state
19 or territory of the United States to be the father of the
20 child, when a certified copy of the court order has been
21 filed with the Putative Father Registry under Section 12.1
22 of this Act;

23 (c) any person who at the time of the filing of the
24 petition is registered in the Putative Father Registry
25 under Section 12.1 of this Act as the putative father of
26 the child;

27 (d) any person who is recorded on the child's birth
28 certificate as the child's father;

29 (e) any person who is openly living with the child or
30 the child's mother at the time the proceeding is initiated
31 and who is holding himself out to be the child's father;

32 (f) any person who has been identified as the child's
33 father by the mother in a written, sworn statement,
34 including an Affidavit of Identification as specified

1 under Section 11 of this Act;

2 (g) any person who was married to the child's mother on
3 the date of the child's birth or within 300 days prior to
4 the child's birth.

5 The sole purpose of notice under this Section shall be to
6 enable the person receiving notice to appear in the adoption
7 proceedings to present evidence to the court relevant to
8 whether the consent or surrender of the person to the adoption
9 is required pursuant to Section 8 of this Act. If the court
10 determines that the consent or surrender of the person is not
11 required pursuant to Section 8, then the person shall not be
12 entitled to participate in the proceedings or to any further
13 notice of the proceedings ~~the best interests of the child.~~

14 (Source: P.A. 91-572, eff. 1-1-00.)

15 (750 ILCS 50/8) (from Ch. 40, par. 1510)

16 Sec. 8. Consents to adoption and surrenders for purposes of
17 adoption.

18 (a) Except as hereinafter provided in this Section consents
19 or surrenders shall be required in all cases, unless the person
20 whose consent or surrender would otherwise be required shall be
21 found by the court:

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

24 (2) not to be the biological or adoptive father of the
25 child; or

26 (3) to have waived his parental rights to the child
27 under Section 12a or 12.1 of this Act; or

28 (4) to be the parent of an adult sought to be adopted;
29 or

30 (5) to be the father of the child as a result of
31 criminal sexual abuse or assault as defined under Article
32 12 of the Criminal Code of 1961; or

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

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

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

19 A criminal conviction of any offense pursuant to
20 Article 12 of the Criminal Code of 1961 is not required. ~~to~~
21 have been indicated for child sexual abuse as defined in
22 the Abused and Neglected Child Reporting Act that involved
23 sexual penetration of the mother; or

24 ~~(7) to be at least 5 years older than the mother and~~
25 ~~the mother was under the age 17 at the time of conception~~
26 ~~of the child to be adopted.~~

27 (b) Where consents are required in the case of an adoption
28 of a minor child, the consents of the following persons shall
29 be sufficient:

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

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

32 (i) was married to the mother on the date of
33 birth of the child or within 300 days before the
34 birth of the child, except for a husband or former

1 husband who has been found by a court of competent
2 jurisdiction not to be the biological father of the
3 child; or

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

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

15 (iv) in the case of a child placed with the
16 adopting parents less than 6 months after birth,
17 made a good faith effort to pay a reasonable amount
18 of the expenses related to the birth of the child
19 and to provide a reasonable amount for the
20 financial support of the child before the
21 expiration of 30 days following the birth of the
22 child, provided that the court may consider in its
23 determination all relevant circumstances,
24 including the financial condition of both
25 biological parents; or

26 (v) in the case of a child placed with the
27 adopting parents more than 6 months after birth,
28 has maintained substantial and continuous or
29 repeated contact with the child as manifested by:
30 (I) the payment by the father toward the support of
31 the child of a fair and reasonable sum, according
32 to the father's means, and either (II) the father's
33 visiting the child at least monthly when
34 physically and financially able to do so and not

1 prevented from doing so by the person or authorized
2 agency having lawful custody of the child, or (III)
3 the father's regular communication with the child
4 or with the person or agency having the care or
5 custody of the child, when physically and
6 financially unable to visit the child or prevented
7 from doing so by the person or authorized agency
8 having lawful custody of the child. The subjective
9 intent of the father, whether expressed or
10 otherwise unsupported by evidence of acts
11 specified in this sub-paragraph as manifesting
12 such intent, shall not preclude a determination
13 that the father failed to maintain substantial and
14 continuous or repeated contact with the child; or

15 (vi) in the case of a child placed with the
16 adopting parents more than six months after birth,
17 openly lived with the child for a period of six
18 months within the one year period immediately
19 preceding the placement of the child for adoption
20 and openly held himself out to be the father of the
21 child; or

22 (vii) has timely registered with Putative
23 Father Registry, as provided in Section 12.1 of
24 this Act, and prior to the expiration of 30 days
25 from the date of such registration, commenced
26 legal proceedings to establish paternity under the
27 Illinois Parentage Act of 1984 or under the law of
28 the jurisdiction of the child's birth; or

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

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

33 (4) Any person or agency having legal custody of a
34 child by court order if the parental rights of the parents

1 have been judicially terminated, and the court having
2 jurisdiction of the guardianship of the child has
3 authorized the consent to the adoption; or

4 (5) The execution and verification of the petition by
5 any petitioner who is also a parent of the child sought to
6 be adopted shall be sufficient evidence of such parent's
7 consent to the adoption.

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

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

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

13 (i) was married to the mother on the date of
14 birth of the child or within 300 days before the
15 birth of the child, except for a husband or former
16 husband who has been found by a court of competent
17 jurisdiction not to be the biological father of the
18 child; or

19 (ii) is the father of the child under a
20 judgment for adoption, an order of parentage, or an
21 acknowledgment of parentage or paternity pursuant
22 to subsection (a) of Section 5 of the Illinois
23 Parentage Act of 1984; or

24 (iii) in the case of a child placed with the
25 adopting parents less than 6 months after birth,
26 openly lived with the child, the child's
27 biological mother, or both, and held himself out to
28 be the child's biological father during the first
29 30 days following the birth of a child; or

30 (iv) in the case of a child placed with the
31 adopting parents less than 6 months after birth,
32 made a good faith effort to pay a reasonable amount
33 of the expenses related to the birth of the child
34 and to provide a reasonable amount for the

1 financial support of the child before the
2 expiration of 30 days following the birth of the
3 child, provided that the court may consider in its
4 determination all relevant circumstances,
5 including the financial condition of both
6 biological parents; or

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

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

30 (vi) in the case of a child placed with the
31 adopting parents more than six months after birth,
32 openly lived with the child for a period of six
33 months within the one year period immediately
34 preceding the placement of the child for adoption

1 and openly held himself out to be the father of the
2 child; or

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

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

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

16 (Source: P.A. 93-510, eff. 1-1-04.)".