

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2148

AN ACT

AMENDING SECTIONS 8-103 AND 8-105, ARIZONA REVISED STATUTES; RELATING TO ADOPTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-103, Arizona Revised Statutes, is amended to
3 read:

4 8-103. Who may adopt; presumed preference; findings

5 A. Any adult resident of this state, whether married, unmarried or
6 legally separated, is eligible to qualify to adopt children. A husband and
7 wife may jointly adopt children.

8 B. PURSUANT TO RULES ADOPTED BY THE DIVISION, THE DIVISION OR AGENCY
9 MUST GIVE PRIMARY CONSIDERATION TO ADOPTIVE PLACEMENT WITH A MARRIED COUPLE
10 AND MAY CONSIDER PLACEMENT WITH A SINGLE PERSON ONLY IF A QUALIFIED MARRIED
11 COUPLE IS NOT AVAILABLE, UNLESS ANY OF THE FOLLOWING APPLIES:

12 1. THE SINGLE PERSON IS A LEGAL RELATIVE OF THE CHILD.

13 2. THE ALTERNATIVE FOR THE CHILD IS EXTENDED FOSTER CARE.

14 3. A MEANINGFUL AND HEALTHY RELATIONSHIP BETWEEN THE SINGLE PERSON AND
15 THE CHILD HAS ALREADY BEEN ESTABLISHED.

16 4. THE CHILD'S BEST INTERESTS REQUIRE THE ADOPTION BY THE SINGLE
17 PERSON.

18 5. THE ADOPTION IS THE RESULT OF A DIRECT PLACEMENT ADOPTION.

19 C. IN EACH ADOPTION PROCEEDING THE COURT SHALL MAKE SPECIFIC WRITTEN
20 FINDINGS REGARDING THE BEST INTERESTS OF THE CHILD PURSUANT TO THIS SECTION.

21 Sec. 2. Section 8-105, Arizona Revised Statutes, is amended to read:

22 8-105. Preadoption certification; investigation; central
23 adoption registry

24 A. Before any prospective adoptive parent may petition to adopt a
25 child the person shall be certified by the court as acceptable to adopt
26 children. A certificate shall be issued only after an investigation
27 conducted by an officer of the court, by an agency or by the division. A
28 written application for certification shall be made directly to the court, to
29 an agency or to the division, in the form and content required by the court,
30 agency or division.

31 B. The division is not required to accept every application for
32 certification. In determining which applications to accept the division may
33 give priority to applications filed JOINTLY by A HUSBAND AND WIFE WHO ARE
34 ADULT RESIDENTS OF THIS STATE AND WHO WISH TO ADOPT A CHILD WHO HAS ANY
35 SPECIAL NEEDS AS DEFINED IN SECTION 8-141 AND SECONDARY PRIORITY TO SINGLE
36 adult residents of this state who wish to adopt a child who has any special
37 needs as defined in section 8-141.

38 C. After receiving and accepting the written and completed application
39 of the prospective adoptive parent or parents, which shall include a
40 financial statement and a physician's or a registered nurse practitioner's
41 statement of each applicant's physical health, the division, the agency or an
42 officer of the court shall conduct or cause to be conducted an investigation
43 of the prospective adoptive parent or parents to determine if they are fit
44 and proper persons to adopt children.

1 D. The division shall not present for certification a prospective
2 adoptive parent unless that person and each other adult member of the
3 household have a valid fingerprint clearance card issued pursuant to section
4 41-1758.07. The prospective adoptive parent and each other adult member of
5 the household must certify on forms that are provided by the division and
6 that are notarized whether that person is awaiting trial on or has ever been
7 convicted of any of the criminal offenses listed in section 41-1758.07,
8 subsections B and C in this state or similar offenses in another state or
9 jurisdiction.

10 E. An officer of the court may obtain a state and federal criminal
11 records check pursuant to section 41-1750 and Public Law 92-544. The
12 department of public safety may exchange this fingerprint data with the
13 federal bureau of investigation.

14 F. This investigation and report to the court shall consider all
15 relevant and material facts dealing with the prospective adoptive parents'
16 fitness to adopt children and shall include:

- 17 1. A complete social history.
- 18 2. The financial condition of the applicant.
- 19 3. The moral fitness of the applicant.
- 20 4. The religious background of the applicant.
- 21 5. The physical and mental health condition of the applicants.
- 22 6. Any court action for or adjudication of child abuse, abandonment of
23 children, dependency or termination of parent-child relationship in which the
24 applicant had control, care or custody of the child who was the subject of
25 the action.
- 26 7. Whether the person or persons wish to be placed on the central
27 registry established in subsection M of this section.
- 28 8. All other facts bearing on the issue of the fitness of the
29 prospective adoptive parents that the court, agency or division may deem
30 relevant.

31 G. The investigator shall not reveal to the prospective adoptive
32 parents the identity of a child or the child's parent or parents and shall
33 not reveal to the child or the child's parent or parents the identity of the
34 prospective adoptive parents if these facts are not already known.

35 H. Within ninety days after the original application prescribed by
36 subsection A of this section has been accepted, the division or the agency or
37 a person or agency designated by the court to conduct an investigation shall
38 present to the juvenile court the written report required by subsection F of
39 this section, which shall include a definite recommendation for certifying
40 the applicant as being acceptable or nonacceptable to adopt children and the
41 reasons for the recommendation.

42 I. Within sixty days after receiving the investigation report required
43 by subsections F and H of this section, the court shall certify the applicant
44 as being acceptable or nonacceptable to adopt children based on the
45 investigation report and recommendations of the report. A certification

1 remains in effect for eighteen months from the date of its issuance and may
2 be extended for additional one year periods if after review the court finds
3 that there have been no material changes in circumstances that would
4 adversely affect the acceptability of the applicant to adopt.

5 J. The court may require additional investigation if it finds that
6 additional information is necessary on which to make an appropriate decision
7 regarding certification.

8 K. Any applicant who has been certified as nonacceptable may petition
9 the court to review ~~such~~ THAT certification. Notice shall be given to all
10 interested parties and the matter shall be heard by the court, which may
11 affirm or reverse the certification.

12 L. If the applicant is certified as nonacceptable, the applicant may
13 not reapply for certification to the court, to any agency or to the division
14 for one year.

15 M. The division shall maintain a central adoption registry that
16 includes the names of all prospective adoptive parents currently certified by
17 the court as acceptable to adopt children, except those who request that
18 their names not be included, the names of all children who are under the
19 jurisdiction of the division and who are currently available for adoption,
20 the names of any other children who are currently available for adoption and
21 whose names are voluntarily entered in the registry by any agency, parent or
22 other person that has the right to give consent to the child's adoption, and
23 other information as the division may elect to include in aid of adoptive
24 placements. Access to information in the registry shall be made available on
25 request to any agency under assurances as the division may require that the
26 information sought is in furtherance of adoptive placements and that
27 confidentiality of the information is preserved.

28 N. This section does not apply if:

29 1. The prospective adoptive parent is the spouse of the birth or legal
30 parent of the child to be adopted or is an uncle, aunt, adult sibling,
31 grandparent or great-grandparent of the child of the whole or half-blood or
32 by marriage or adoption.

33 2. The birth or legal parent is deceased but at the time of death the
34 parent had legal and physical custody of the child to be adopted and the
35 child had resided primarily with the spouse of the birth or legal parent
36 during the twenty-four months before the death of the parent.

37 3. The grandparent, great-grandparent, aunt, adult sibling or uncle is
38 deceased but at the time of death that person had legal and physical custody
39 of the child to be adopted and the child had resided primarily with the
40 spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle
41 during the twenty-four months before the death of the grandparent,
42 great-grandparent, aunt, adult sibling or uncle.

43 O. If the applicant has adopted a child within three years preceding
44 the current application and is applying to adopt another child or is a foster
45 parent who is licensed by this state, the division or agency or a person

1 designated by the court to conduct an investigation shall only provide an
2 ~~update~~ UPDATED report on any changes in circumstances that have occurred
3 since the previous certification or licensing report. If the applicant has
4 adopted a child more than three years before the current application and is
5 applying to adopt another child, the division or agency or a person
6 designated by the court to conduct an investigation may provide an updated
7 report on any changes in circumstances that have occurred since the previous
8 certification or licensing report. The court shall certify the applicant as
9 acceptable to adopt unless there are changes in circumstances that adversely
10 affect the applicant's parenting ability. In making this determination, the
11 court shall consider information from the prior certification or licensing
12 report.