

AN ACT

To amend section 5103.16 of the Revised Code to extend to legal custodians the exemption from certain adoptive placement requirements.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That section 5103.16 of the Revised Code be amended as follows:

Sec. 5103.16. (A) Except as otherwise provided in this section, no child shall be placed or accepted for placement under any written or oral agreement or understanding that transfers or surrenders the legal rights, powers, or duties of the legal parent, parents, or guardian of the child into the temporary or permanent custody of any association or institution that is not certified by the department of job and family services under section 5103.03 of the Revised Code, without the written consent of the office in the department that oversees the interstate compact for placement of children established under section 5103.20 of the Revised Code or the interstate compact on the placement of children established under section 5103.23 of the Revised Code, as applicable, or by a commitment of a juvenile court, or by a commitment of a probate court as provided in this section. A child may be placed temporarily without written consent or court commitment with persons related by blood or marriage or in a legally licensed boarding home.

(B)(1) Associations and institutions certified under section 5103.03 of the Revised Code for the purpose of placing children in free foster homes or for legal adoption shall keep a record of the temporary and permanent surrenders of children. This record shall be available for separate statistics, which shall include a copy of an official birth record and all information concerning the social, mental, and medical history of the children that will aid in an intelligent disposition of the children in case that becomes necessary because the parents or guardians fail or are unable to reassume custody.

(2) No child placed on a temporary surrender with an association or institution shall be placed permanently in a foster home or for legal adoption. All surrendered children who are placed permanently in foster

homes or for adoption shall have been permanently surrendered, and a copy of the permanent surrender shall be a part of the separate record kept by the association or institution.

(C) 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 under this section shall be construed to contain a promise by the person seeking to adopt the child to pay the expenses listed in divisions (C)(1), (2), and (4) of section 3107.055 of the Revised Code 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 in a hospital, foster home, or other appropriate place for up to thirty days or until other custody is established for the child, as provided by law, whichever is less.

(D) No child shall be placed or received for adoption or with intent to adopt unless placement is made by a public children services agency, an institution or association that is certified by the department of job and family services under section 5103.03 of the Revised Code 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 parent or parents of the child personally have applied to, and appeared before, the probate court of the county in which the parent or parents reside, or in which the person seeking to adopt the child resides, for approval of the proposed placement specified in the application and have signed and filed with the court a written statement showing that the parent or parents are aware of their right to contest the decree of adoption subject to the limitations of section 3107.16 of the Revised Code;

(2) The court ordered an independent home study of the proposed placement to be conducted as provided in section 3107.031 of the Revised Code, and after completion of the home study, the court determined that the proposed placement is in the best interest of the child;

(3) The court has approved of record the proposed placement.

In determining whether a custodian has authority to place children for adoption under the laws of a foreign country, the probate court shall 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 the requirements of the immigration and naturalization service of the United States department of justice for purposes of immigration to this country pursuant to section 101(b)(1)(F) of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 (b)(1)(F), as amended

or reenacted.

If the parent or parents of the child are deceased or have abandoned the child, as determined under division (A) of section 3107.07 of the Revised Code, 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 not otherwise having legal authority to place the orphaned or abandoned child for adoption, but having legal custody of the orphaned or abandoned child, in the probate court of the county in which the child is a resident, or in which the department, board, or organization is located, or where the person or persons with whom the child is to be placed reside. Unless the parent, parents, or guardian of the person of the child personally have appeared before the court and applied for approval of the placement, notice of the hearing on the application shall be served on the parent, parents, or guardian.

The consent to placement, surrender, or adoption executed by a minor parent before a judge of the probate court or an authorized deputy or referee of the court, whether executed within or outside the confines of the court, is as valid as though executed by an adult. A consent given as above before an employee of a children services agency that is licensed as provided by law, is equally effective, if the consent also is accompanied by an affidavit executed by the witnessing employee or employees to the effect 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.

(E)(1) This section does not apply to an adoption by a stepparent, a grandparent, a grandparent's husband or wife, a legal custodian, or a guardian.

(2) As used in division (E)(1) of this section:

(a) "Legal custodian" means a person who has been granted the legal custody of a child by a court of competent jurisdiction.

(b) "Legal custody" has the same meaning as in section 2151.011 of the Revised Code or in any other substantially equivalent statute.

SECTION 2. That existing section 5103.16 of the Revised Code is hereby repealed.

Am. H. B. No. 212

129th G.A.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____