Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 230

SENATE BILL 1061

AN ACT

AMENDING SECTIONS 8-106, 25-804 AND 25-806, ARIZONA REVISED STATUTES; RELATING TO PATERNITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 8-106, Arizona Revised Statutes, is amended to read:

8-106. Consent to adoption; waiver; consent to the release of information; notification to potential fathers

A. The court shall not grant an adoption of a child unless consent to adopt has been obtained and filed with the court from the following:

1. The child's birth or adoptive mother, if living.

2. The child's father if any of the following is true:

(a) The father was married to the child's mother at the time of conception or at any time between conception and the child's birth unless his paternity is excluded or another man's paternity is established pursuant to title 25, chapter 6, article 1.

(b) The father has adopted the child.

(c) The father's paternity is established under title 25, chapter 6, article 1 or section 36-334.

3. A child who is twelve years of age or older and who gives consent in open court.

4. Any guardian of the person of the child who is appointed by a court and who is given authority by it to consent to the child's adoption.

5. An agency that has been given consent to place the child for adoption by the parent or parents whose consent would be necessary under paragraph 1 or 2 of this subsection, or that has been given authority in other legal proceedings to place the child for adoption.

6. The guardian of any adult parent for whom a guardian is currently appointed.

7. The division if it has been given consent to place the child for adoption by the parent or parents whose consent would otherwise be necessary pursuant to paragraph 1 or 2 of this subsection or if it has been given authority in other legal proceedings to place the child for adoption. The court may waive the requirement for consent if the court determines, after a hearing on actual notice to all persons who may be adversely affected, that waiving the requirement is clearly in the child's best interest.

B. It is not necessary for a person to obtain consent to adopt from the following:

1. An adult parent for whom a guardian is currently appointed.

2. A parent whose parental rights have been terminated by court order.

3. A parent who has previously consented to an agency's or the division's placement of the child for adoption.

4. A person whose consent is not required under subsection A of this section.

C. The minority of the child or parent does not affect the child's or parent's competency to give consent in the instances set forth in this section.

D. A consent to adopt is irrevocable unless obtained by fraud, duress or undue influence.

E. An agency, the division or an attorney participating or assisting in a direct placement adoption pursuant to section 8-130 shall obtain from a birth parent, at the time consent for adoption is obtained, a notarized statement granting permission or withholding permission for the child being adopted, when the child reaches eighteen years of age, to obtain identifying and nonidentifying information about the child and the consenting birth parent. The agency, division or attorney shall inform the birth parent at the time of obtaining the notarized statement that the decision to grant permission or withhold permission may be changed at any time by filing a notarized statement with the court. The most recent notarized statement shall operate as consent for the court to grant or withhold identifying and nonidentifying information.

F. A notarized affidavit signed by the mother listing all potential fathers shall be filed with the court. The affidavit shall attest that all of the information contained in the affidavit is complete and accurate.

G. Notice shall be served on each potential father as provided for the service of process in civil actions. The notice shall be substantially in the form prescribed in subsection I of this section and shall inform the potential father of all of the following:

1. That adoption is planned.

2. The potential father's right to consent or withhold consent to the adoption.

3. The potential father's responsibility to initiate paternity proceedings under title 25, chapter 6, article 1, and to serve the mother within thirty days of completion of service.

4. The potential father's responsibility to proceed to judgment in the paternity action.

5. The potential father's right to seek custody.

6. The potential father's responsibility to begin to provide financial support for the child if paternity is established.

7. That the potential father's failure to file a paternity action pursuant to title 25, chapter 6, article 1, and to serve the mother and proceed to judgment in the paternity action as prescribed by this section, bars the potential father from bringing or maintaining any action to assert any interest in the child.

~~H. A mother may apply to the court for permission to omit her address from the affidavit and from the notice to potential fathers. The court shall grant this request if the mother shows to the court's satisfaction this is necessary to protect her safety.~~

H. SERVICE ON A MOTHER OF A TITLE 25, CHAPTER 6, ARTICLE 1 PATERNITY ACTION PURSUANT TO THIS SECTION MAY BE ACCEPTED BY AN ATTORNEY OR AGENCY THAT IS LICENSED IN THIS STATE AND THAT IS REPRESENTING THE MOTHER. A MOTHER MAY OMIT HER ADDRESS FROM THE AFFIDAVIT AND NOTICE TO POTENTIAL FATHERS IF THE

ADDRESS OF HER ATTORNEY OR THE AGENCY IS PROVIDED IN THE AFFIDAVIT. SERVICE ON AN ATTORNEY OR AGENCY PURSUANT TO THIS SUBSECTION IS LIMITED TO SERVICE OF THE INITIAL VERIFIED PETITION AND SUMMONS IN THE PATERNITY ACTION. SERVICE ON THE ATTORNEY DOES NOT MAKE THE ATTORNEY THE ATTORNEY OF RECORD FOR THE MOTHER IN THE PATERNITY ACTION AND DOES NOT MAKE THE AGENCY THE AGENT FOR THE MOTHER IN THE PATERNITY ACTION.

I. The notice required pursuant to subsection G of this section shall be in substantially the following form:

Notice:

Notice is given to _____ that you have been identified by _____, the natural mother, ~~residing at _____,~~ as a potential father of a child to be born or, born on _____, in _____.

You are informed of the following:

1. _____, the natural mother, plans to place the child for adoption.

2. Under sections 8-106 and 8-107, Arizona Revised Statutes, you have the right to consent or withhold consent to the adoption.

3. Your written consent to the adoption is irrevocable once you give it.

4. If you withhold consent to the adoption, you must initiate paternity proceedings under title 25, chapter 6, article 1, Arizona Revised Statutes, and serve the mother within thirty days after completion of service of this notice.

5. You have the obligation to proceed to judgment in the paternity action.

6. You have the right to seek custody.

7. If you are established as the child's father, you must begin to provide financial support for the child.

8. If you do not file a paternity action under title 25, chapter 6, article 1, Arizona Revised Statutes, and do not serve the mother within thirty days after completion of the service of this notice and pursue the action to judgment, you cannot bring or maintain any action to assert any interest in the child.

9. The Indian child welfare act may supersede the Arizona Revised Statutes regarding adoption and paternity.

10. FOR THE PURPOSES OF SERVICE OF A PATERNITY ACTION UNDER TITLE 25, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, SERVICE MAY BE MADE ON THE MOTHER AT _____ OR HER AGENCY OR ATTORNEY AT _____.

~~10.~~ 11. You may wish to consult with an attorney to assist you in responding to this notice.

J. A potential father who fails to file a paternity action and who does not ~~comply with all applicable service requirements~~ SERVE THE MOTHER

within thirty days after completion of service ON THE POTENTIAL FATHER as prescribed in subsection G of this section waives his right to be notified of any judicial hearing regarding the child's adoption or the termination of parental rights and his consent to the adoption or termination is not required.

Sec. 2. Section 25-804, Arizona Revised Statutes, is amended to read:

25-804. Time for instituting proceedings

Proceedings to establish the paternity of the child may be instituted during the pregnancy of the mother or after the birth of the child. THE COURT SHALL DISMISS ANY PROCEEDING THAT IS BARRED PURSUANT TO SECTION 8-106, SUBSECTION J. For THE purposes of establishing a duty to pay support or past support, the proceedings must be instituted before the child's eighteenth birthday.

Sec. 3. Section 25-806, Arizona Revised Statutes, is amended to read:

25-806. Petition

A. Paternity proceedings are commenced by the filing of a verified petition that alleges that a woman is delivered of a child or children born out of lawful wedlock or pregnant with a child conceived out of wedlock and that the respondent is the father of the child or children.

B. Maternity proceedings are commenced by the filing of a verified petition that alleges that a woman is delivered of a child or children born out of lawful wedlock and that the woman as respondent is the mother of the child or children.

C. The procedure on the filing of the petition shall be as in other civil cases, EXCEPT THAT A PARTY WHO HAS BEEN SERVED PURSUANT TO SECTION 8-106, SUBSECTION G MUST SERVE THE MOTHER WITH A COPY OF THE VERIFIED PETITION AND SUMMONS WITHIN THIRTY DAYS AFTER COMPLETION OF SERVICE OF NOTICE AS PRESCRIBED BY THAT SUBSECTION.

D. If the respondent does not file a response or if the respondent files a written response admitting paternity or maternity, the court may immediately enter a judgment of paternity or maternity. If other relevant issues are raised in the petition or response or in a separate petition filed after entry of a paternity or maternity judgment, the court shall proceed to resolve all relevant issues in the case pursuant to the rules of procedure applicable to family law cases.

E. A trial held pursuant to this section shall be made to the court.

APPROVED BY THE GOVERNOR APRIL 25, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 25, 2014.

Failed
~~Passed~~ the House April 15, 2014,

by the following vote: 16 Ayes,

44 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate February 20, 2014,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Chuck Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1061

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 23, 2014,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Cheryl Larke
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 23, 2014,

by the following vote: 26 Ayes,

0 Nays, 4 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 24 day of April, 2014,

at 9:25 o'clock A M.

Mikhaila Howard
Secretary to the Governor

Approved this 25th day of

April, 2014,

at 10:33 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 25th day of April, 2014,

at 11:53 o'clock a M.

Secretary of State

S.B. 1061