

No. 2004-21

AN ACT

HB 1423

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing, in adoption, for voluntary relinquishment to adults, for an alternative procedure, for reports of intention and for consent.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 2502(a), 2504(a), 2531(b)(6) and 2711(c) and (d)(1) of Title 23 of the Pennsylvania Consolidated Statutes are amended to read:

§ 2502. Relinquishment to adult intending to adopt child.

(a) Petition.—When any child under the age of 18 years has been for a minimum period of **[30] three** days in the exclusive care of an adult or adults who have filed a report of intention to adopt required by section 2531 (relating to report of intention to adopt), the parent or parents of the child may petition the court for permission to relinquish forever all parental rights to their child.

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§ 2504. Alternative procedure for relinquishment.

(a) Petition to confirm consent to adoption.—If the parent or parents of the child have executed consents to an adoption **[as required by], upon petition by the intermediary or, where there is no intermediary, by the adoptive parent, the court shall hold a hearing for the purpose of confirming a consent to an adoption upon expiration of the time periods under** section 2711 (relating to consents necessary to adoption). **[but have failed for a period of 40 days after executing the consent to file or proceed with the petition for voluntary relinquishment of parental rights provided for in this subchapter, the intermediary may petition the court to hold a hearing for the purpose of confirming the intention of the parent or parents to voluntarily relinquish their rights and duties as evidenced by the consent or consents to the adoption, the original of which shall be attached to the petition. In the case where there is no intermediary, the adoptive parent or parents may file the petition.] The original consent or consents to the adoption shall be attached to the petition.**

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§ 2531. Report of intention to adopt.

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(b) Contents.—The report shall set forth:

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(6) The name, address and signature of the person or persons making the report. Immediately above the signature of the person or persons intending to adopt the child shall appear the following statement:

I acknowledge that I have been advised or know and understand that the **[natural parent] birth father or putative father** may revoke the consent to the adoption of this child **[until a court has entered a decree terminating the parental rights and, unless a decree terminating parental rights has been entered, the natural parent may revoke the consent until a court enters the final adoption decree.] within 30 days after the later of the birth of the child or the date he has executed the consent to an adoption and that the birth mother may revoke the consent to an adoption of this child within 30 days after the date she has executed the consent.**

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§ 2711. Consents necessary to adoption.

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(c) **Validity of consent.**—No consent shall be valid if it was executed prior to or within 72 hours after the birth of the child. A putative father may execute a consent at any time after receiving notice of the expected or actual birth of the child. Any consent given outside this Commonwealth shall be valid for purposes of this section if it was given in accordance with the laws of the jurisdiction where it was executed. A consent to an adoption may only be revoked **[prior to the earlier of either the entry of a decree of termination of parental rights or the entry of a decree of adoption.] as set forth in this subsection.** The revocation of a consent shall be in writing and shall be served upon the agency or adult to whom the child was relinquished. *The following apply:*

(1) *Except as otherwise provided in paragraph (3):*

(i) *For a consent to an adoption executed by a birth father or a putative father, the consent is irrevocable more than 30 days after the birth of the child or the execution of the consent, whichever occurs later.*

(ii) *For a consent to an adoption executed by a birth mother, the consent is irrevocable more than 30 days after the execution of the consent.*

(2) *An individual may not waive the revocation period under paragraph (1).*

(3) *Notwithstanding paragraph (1), the following apply:*

(i) *An individual who executed a consent to an adoption may challenge the validity of the consent only by filing a petition alleging fraud or duress within the earlier of the following time frames:*

(A) *Sixty days after the birth of the child or the execution of the consent, whichever occurs later.*

(B) *Thirty days after the entry of the adoption decree.*

(ii) A consent to an adoption may be invalidated only if the alleged fraud or duress under subparagraph (i) is proven by:

(A) a preponderance of the evidence in the case of consent by a person 21 years of age or younger; or

(B) clear and convincing evidence in all other cases.

(d) Contents of consent.—

(1) The consent of a parent of an adoptee under 18 years of age shall set forth the name, age and marital status of the parent, the relationship of the consentor to the child, the name of the other parent or parents of the child and the following:

I hereby voluntarily and unconditionally consent to the adoption of the above named child.

I understand that by signing this consent I indicate my intent to permanently give up all rights to this child.

I understand such child will be placed for adoption.

I understand I may revoke this consent to permanently give up all rights to this child by placing the revocation in writing and serving it upon the agency or adult to whom the child was relinquished.

[I understand I may not revoke this consent after a court has entered a decree confirming this consent or otherwise terminating my parental rights to this child. Even if a decree has not been entered terminating my parental rights I may not revoke this consent after a decree of adoption of this child is entered.]

If I am the birth father or putative father of the child, I understand that this consent to an adoption is irrevocable unless I revoke it within 30 days after either the birth of the child or my execution of the consent, whichever occurs later, by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

If I am the birth mother of the child, I understand that this consent to an adoption is irrevocable unless I revoke it within 30 days after executing it by delivering a written revocation to (insert the name and address of the agency coordinating the adoption) or (insert the name and address of an attorney who represents the individual relinquishing parental rights or prospective adoptive parent of the child) or (insert the court of the county in which the voluntary relinquishment form was or will be filed).

I have read and understand the above and I am signing it as a free and voluntary act.

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Section 2. The amendment of 23 Pa.C.S. §§ 2502(a), 2504(a), 2531(b)(6) and 2711(c) and (d)(1) shall apply to adoptions which are initiated on or after the effective date of this section.

Section 3. This act shall take effect in 60 days.

APPROVED—The 24th day of March, A.D. 2004.

EDWARD G. RENDELL