

SENATE BILL 540

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9lr2517

By: **Senator Kelley**

Introduced and read first time: February 5, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Adoption of an Adult**

3 FOR the purpose of establishing that certain provisions of law requiring the issuance
4 and service of a show cause order on a prospective adoptee's parents do not
5 apply if the prospective adoptee is an adult; creating a rebuttable presumption
6 that a certain investigation is not necessary before ruling on a certain adoption
7 petition involving a prospective adoptee who is an adult under certain
8 circumstances; establishing that parental consent to an adoption is not required
9 if the prospective adoptee is an adult; and generally relating to the adoption of
10 an adult.

11 BY repealing and reenacting, with amendments,
12 Article – Family Law
13 Section 5–3B–15, 5–3B–16, and 5–3B–20
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2008 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Family Law**

19 5–3B–15.

20 (a) (1) Subsection (b) of this section does not apply to an adoption by a
21 spouse of the prospective adoptee's parent or a relative of the prospective adoptee.

22 (2) **THE PROVISIONS OF THIS SECTION REQUIRING THE ISSUANCE**
23 **AND SERVICE OF A SHOW CAUSE ORDER ON A PROSPECTIVE ADOPTEE'S**
24 **PARENTS DO NOT APPLY IF THE PROSPECTIVE ADOPTEE IS AN ADULT.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) A court shall issue a show cause order that includes advice as to the parent's rights to:

(1) have independent counsel; and

(2) receive adoption counseling and guidance.

(c) On issuance of a show cause order as to a prospective adoptee, a petitioner shall serve the order:

(1) on each of the prospective adoptee's living parents who has not consented to the adoption; and

(2) if the prospective adoptee is at least 10 years old and has not consented to the adoption, on the prospective adoptee.

(d) Service under this section shall be by:

(1) personal service; or

(2) certified mail, restricted delivery, return receipt requested.

(e) Service under this section shall be attempted at the parent's last address known to the petitioner.

(f) (1) If a court is satisfied, by affidavit or testimony, that, after reasonable efforts in good faith, a petitioner could not identify a parent or could not effect service on a parent, the court shall order service through notice by publication as to that parent.

(2) Notice under this subsection shall consist of substantially the following statement:

To: (Father's name) To: (Mother's name) To: Unknown parent "You are hereby notified that an adoption case has been filed in the circuit court for (county name), case no. (number). All persons who believe themselves to be parents of a (male or female) child born on (date of birth) in (city, state) to (mother's and father's names and dates of birth) shall file a written response. A copy of the show cause order may be obtained from the clerk's office at (address) and (telephone number). If you do not file a written objection by (deadline), you will have agreed to the permanent loss of your parental rights to this child."

(3) Service under this subsection shall be by:

(i) publication at least once in one or more newspapers in general circulation in the county where the petition is filed or, if different, where the parent's last address known to the petitioner is located; and

1 (ii) posting for at least 30 days on a website of the Department.

2 (4) The Department may charge a petitioner a reasonable fee to cover
3 the cost of posting.

4 5-3B-16.

5 (a) Before ruling on a consensual adoption petition under § 5-3B-20(1) of
6 this subtitle, a court may order any investigation that the court considers necessary.

7 (b) Before ruling on a nonconsensual adoption petition under §§ 5-3B-20(2)
8 and 5-3B-22 of this subtitle, a court shall order an appropriate agency to investigate
9 and submit a report that includes summaries of:

10 (1) the prospective adoptee's emotional ties with and feelings toward
11 the prospective adoptee's parents, the prospective adoptee's siblings, and others who
12 may affect the prospective adoptee's best interests significantly; and

13 (2) the prospective adoptee's adjustment to:

14 (i) community;

15 (ii) home; and

16 (iii) school.

17 (C) **THERE IS A REBUTTABLE PRESUMPTION THAT AN INVESTIGATION**
18 **UNDER SUBSECTION (A) OF THIS SECTION IS NOT NECESSARY BEFORE RULING**
19 **ON A CONSENSUAL ADOPTION PETITION INVOLVING A PROSPECTIVE ADOPTEE**
20 **WHO IS AN ADULT IF THE PROSPECTIVE ADOPTEE HAS GRADUATED FROM HIGH**
21 **SCHOOL OR HAS COMPLETED A GENERAL EQUIVALENCY DEVELOPMENT**
22 **EXAMINATION (GED).**

23 5-3B-20.

24 (A) A court may enter an order for adoption only if:

25 (1) (i) 1. each of the prospective adoptee's living parents
26 consents:

27 A. in writing; or

28 B. by failure to timely file notice of objection after being
29 served with a show cause order in accordance with this subtitle;

1 2. an administrative, executive, or judicial body of a
2 state or other jurisdiction has granted a governmental unit or person other than a
3 parent the power to consent to adoption, and the unit or person consents; or

4 3. parental rights have been terminated in compliance
5 with the laws of a state or other jurisdiction, as described in § 5-3B-04 of this subtitle;
6 and

7 (ii) if the prospective adoptee is at least 10 years old, the
8 prospective adoptee consents; or

9 (2) in accordance with § 5-3B-22 of this subtitle, the court orders
10 adoption without consent otherwise required under this section.

11 **(B) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, PARENTAL**
12 **CONSENT TO AN ADOPTION IS NOT REQUIRED IF THE PROSPECTIVE ADOPTEE IS**
13 **AN ADULT.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2009.