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SENATE BILL 474

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Anthony L. Thornton

AN ACT

RELATING TO ADOPTION; AMENDING THE ADOPTION ACT TO STREAMLINE
THE ADOPTION PROCESS FOR CHILDREN WHO ARE PRENATALLY ABANDONED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 32A-5-3 NMSA 1978 (being Laws 1993,
Chapter 77, Section 130, as amended) is amended to read:

"32A-5-3. DEFINITIONS.--As used in the Adoption Act:

A. "accrediting entity" means an entity that has
entered into an agreement with the United States secretary of
state pursuant to the federal Intercountry Adoption Act of 2000
and regulations adopted by the United States secretary of state
pursuant to that act, to accredit agencies and approve persons
who provide adoption services related to convention adoptions;

B. "adoptee" means a person who is the subject of
an adoption petition;

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C. "adoption service" means:

- (1) identifying a child for adoption and arranging the adoption of the child;
- (2) arranging or assisting in the process of connecting or matching parents who may place a child for adoption with prospective adoptive parents;
- (3) providing counseling, advice or guidance related to a potential adoption;
- (4) receiving or disbursing funds or anything of value on behalf of a prospective adoptive parent or to a parent who may place or has placed a child for adoption;
- (5) securing termination of parental rights to a child or consent to adoption of the child;
- (6) performing a background study on a child and reporting on the study;
- (7) performing a home study on a prospective adoptive parent and reporting on the study;
- (8) making determinations regarding the best interests of a child and the appropriateness of an adoptive placement for the child;
- (9) performing post-placement monitoring of a child until an adoption is final; or
- (10) when there is a disruption before an adoption of a child is final, assuming custody of the child and providing or facilitating the provision of child care or other

1 social services for the child pending an alternative placement
2 of the child;

3 D. "agency" means a person certified, licensed or
4 otherwise specially empowered by law to place a child in a home
5 in this or any other state for the purpose of adoption;

6 E. "agency adoption" means an adoption when the
7 adoptee is in the custody of an agency prior to placement;

8 F. "acknowledged father" means a father who:

9 (1) acknowledges paternity of the adoptee
10 pursuant to the putative father registry, as provided for in
11 Section 32A-5-20 NMSA 1978;

12 (2) is named, with his consent, as the
13 adoptee's father on the adoptee's birth certificate;

14 (3) is obligated to support the adoptee under
15 a written voluntary promise or pursuant to a court order; or

16 (4) has openly held out the adoptee as his own
17 child by establishing a custodial, personal or financial
18 relationship with the adoptee as follows:

19 (a) for an adoptee under six months old
20 at the time of placement: 1) has initiated an action to
21 establish paternity; 2) is living with the adoptee at the time
22 the adoption petition is filed; 3) has lived with the mother a
23 minimum of ninety days during the two-hundred-eighty-day period
24 prior to the birth or placement of the adoptee; 4) has lived
25 with the adoptee within the ninety days immediately preceding

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1 the adoptive placement; 5) has provided reasonable and fair
2 financial support to the mother during the pregnancy and in
3 connection with the adoptee's birth in accordance with his
4 means and when not prevented from doing so by the person or
5 authorized agency having lawful custody of the adoptee or the
6 adoptee's mother; 6) has continuously paid child support to the
7 mother since the adoptee's birth in an amount at least equal to
8 the amount provided in Section 40-4-11.1 NMSA 1978, or has
9 brought current any delinquent child support payments; or 7)
10 any other factor the court deems necessary to establish a
11 custodial, personal or financial relationship with the adoptee;
12 or

13 (b) for an adoptee over six months old
14 at the time of placement: 1) has initiated an action to
15 establish paternity; 2) has lived with the adoptee within the
16 ninety days immediately preceding the adoptive placement; 3)
17 has continuously paid child support to the mother since the
18 adoptee's birth in an amount at least equal to the amount
19 provided in Section 40-4-11.1 NMSA 1978, or is making
20 reasonable efforts to bring delinquent child support payments
21 current; 4) has contact with the adoptee on a monthly basis
22 when physically and financially able and when not prevented by
23 the person or authorized agency having lawful custody of the
24 adoptee; or 5) has regular communication with the adoptee, or
25 with the person or agency having the care or custody of the

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1 adoptee, when physically and financially unable to visit the
2 adoptee and when not prevented from doing so by the person or
3 authorized agency having lawful custody of the adoptee;

4 G. "alleged father" means an individual whom the
5 biological mother has identified as the biological father, but
6 the individual has not acknowledged paternity or registered
7 with the putative father registry as provided for in Section
8 32A-5-20 NMSA 1978;

9 H. "consent" means a document:

10 (1) signed by a biological parent whereby the
11 parent grants consent to the adoption of the parent's child by
12 another;

13 (2) whereby the department or an agency grants
14 its consent to the adoption of a child in its custody; or

15 (3) signed by the adoptee if the child is
16 fourteen years of age or older;

17 I. "convention adoption" means:

18 (1) an adoption by a United States resident of
19 a child who is a resident of a foreign country that is a party
20 to the Hague Convention on Protection of Children and Co-
21 operation in Respect of Inter-country Adoption; or

22 (2) an adoption by a resident of a foreign
23 country that is a party to the Hague Convention on Protection
24 of Children and Co-operation in Respect of Inter-country
25 Adoption of a child who is a resident of the United States;

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1 J. "counselor" means a person certified by the
2 department to conduct adoption counseling in independent
3 adoptions;

4 K. "department adoption" means an adoption when the
5 child is in the custody of the department;

6 L. "foreign born child" means any child not born in
7 the United States who is not a citizen of the United States;

8 M. "former parent" means a parent whose parental
9 rights have been terminated or relinquished;

10 N. "full disclosure" means mandatory and continuous
11 disclosure by the investigator, agency, department or
12 petitioner throughout the adoption proceeding and after
13 finalization of the adoption of all known, nonidentifying
14 information regarding the adoptee, including:

- 15 (1) health history;
- 16 (2) psychological history;
- 17 (3) mental history;
- 18 (4) hospital history;
- 19 (5) medication history;
- 20 (6) genetic history;
- 21 (7) physical descriptions;
- 22 (8) social history;
- 23 (9) placement history; and
- 24 (10) education;

25 O. "independent adoption" means an adoption when

1 the child is not in the custody of the department or an agency;

2 P. "investigator" means an individual certified by
3 the department to conduct pre-placement studies and post-
4 placement reports;

5 Q. "office" means a place for the regular
6 transaction of business or performance of particular services;

7 R. "parental rights" means all rights of a parent
8 with reference to a child, including parental right to control,
9 to withhold consent to an adoption or to receive notice of a
10 hearing on a petition for adoption;

11 S. "placement" means the selection of a family for
12 an adoptee or matching of a family with an adoptee and physical
13 transfer of the adoptee to the family in all adoption
14 proceedings, except in adoptions filed pursuant to Paragraphs
15 (1) and (2) of Subsection C of Section 32A-5-12 NMSA 1978, in
16 which case placement occurs when the parents consent to the
17 adoption, parental rights are terminated or parental consent is
18 implied;

19 T. "post-placement report" means a written
20 evaluation of the adoptive family and the adoptee after the
21 adoptee is placed for adoption;

22 U. "prenatal abandonment" means the failure of an
23 acknowledged or alleged father to provide reasonable, safe and
24 consistent support to the mother and child during pregnancy.

25 Prenatal abandonment occurs when:

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1 (1) an acknowledged or alleged father, for a
2 period of at least sixty days, fails to:

3 (a) initiate or maintain any significant
4 contact with the pregnant mother, despite knowing or having
5 reason to know the mother is pregnant with the acknowledged or
6 alleged father's child; or

7 (b) provide or offer reasonable
8 financial or emotional support, within the acknowledged or
9 alleged father's own means, including contributions to prenatal
10 medical or living expenses; or

11 (2) an acknowledged or alleged father is
12 convicted for domestic violence against the mother that
13 occurred while the mother was pregnant with the child;

14 [~~U.~~] V. "pre-placement study" means a written
15 evaluation of the adoptive family, the adoptee's biological
16 family and the adoptee;

17 [~~V.~~] W. "presumed father" means:

18 (1) the husband of the biological mother at
19 the time the adoptee was born;

20 (2) an individual who was married to the
21 mother and either the adoptee was born during the term of the
22 marriage or the adoptee was born within three hundred days
23 after the marriage was terminated by death, annulment,
24 declaration of invalidity or divorce; or

25 (3) before the adoptee's birth, an individual

1 who attempted to marry the adoptee's biological mother by a
2 marriage solemnized in apparent compliance with law, although
3 the attempted marriage is or could be declared invalid and if
4 the attempted marriage:

5 (a) could be declared invalid only by a
6 court, the adoptee was born during the attempted marriage or
7 within three hundred days after its termination by death,
8 annulment, declaration of invalidity or divorce; or

9 (b) is invalid without a court order,
10 the adoptee was born within three hundred days after the
11 termination of cohabitation;

12 ~~[W.]~~ X. "record" means any petition, affidavit,
13 consent or relinquishment form, transcript or notes of
14 testimony, deposition, power of attorney, report, decree,
15 order, judgment, correspondence, document, photograph, invoice,
16 receipt, certificate or other printed, written, videotaped or
17 tape-recorded material pertaining to an adoption proceeding;

18 ~~[X.]~~ Y. "relinquishment" means the document by
19 which a parent relinquishes parental rights to the department
20 or an agency to enable placement of the parent's child for
21 adoption;

22 ~~[Y.]~~ Z. "resident" means a person who, prior to
23 filing an adoption petition, has lived in the state for at
24 least six months immediately preceding filing of the petition
25 for adoption or a person who has become domiciled in the state

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1 by establishing legal residence with the intention of
2 maintaining the residency indefinitely; and

3 [Z.] AA. "stepparent adoption" means an adoption of
4 the adoptee by the adoptee's stepparent when the adoptee has
5 lived with the stepparent for at least one year following the
6 marriage of the stepparent to the custodial parent."

7 **SECTION 2.** Section 32A-5-15 NMSA 1978 (being Laws 1993,
8 Chapter 77, Section 142, as amended) is amended to read:

9 "32A-5-15. TERMINATION OF PARENTAL RIGHTS.--

10 A. The physical, mental and emotional welfare and
11 needs of the child shall be the primary consideration for the
12 termination of parental rights. The court may terminate the
13 rights of the child's parents as provided by the Adoption Act.

14 B. The court shall terminate parental rights with
15 respect to a child when:

16 (1) the child has been abandoned by the
17 parents. Prenatal abandonment by an acknowledged or alleged
18 father subsequently identified as the biological father through
19 legally admissible genetic testing shall be considered a form
20 of abandonment;

21 (2) the child has been a neglected or abused
22 child and the court finds that the conditions and causes of the
23 neglect and abuse are unlikely to change in the foreseeable
24 future; or

25 (3) the child has been placed in the care of

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1 others, including care by other relatives, either by a court
2 order or otherwise, and the following conditions exist:

3 (a) the child has lived in the home of
4 others for an extended period of time;

5 (b) the parent-child relationship has
6 disintegrated;

7 (c) a psychological parent-child
8 relationship has developed between the substitute family and
9 the child;

10 (d) if the court deems the child of
11 sufficient capacity to express a preference, the child no
12 longer prefers to live with the natural parent;

13 (e) the substitute family desires to
14 adopt the child; and

15 (f) a presumption of abandonment created
16 by the conditions described in Subparagraphs (a) through (e) of
17 this paragraph has not been rebutted.

18 C. A finding by the court that all of the
19 conditions set forth in Subparagraphs (a) through (e) of
20 Paragraph (3) of Subsection B of this section exist shall
21 create a rebuttable presumption of abandonment."

22 SECTION 3. Section 32A-5-19 NMSA 1978 (being Laws 1993,
23 Chapter 77, Section 146, as amended) is amended to read:

24 "32A-5-19. PERSONS WHOSE CONSENTS OR RELINQUISHMENTS ARE
25 NOT REQUIRED.--The consent to adoption or relinquishment of

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1 parental rights required pursuant to the provisions of the
2 Adoption Act shall not be required from:
3 A. a parent whose rights with reference to the
4 adoptee have been terminated pursuant to law;
5 B. a parent who has relinquished the child to an
6 agency for an adoption;
7 C. a biological father of an adoptee conceived as a
8 result of rape or incest;
9 D. a person who has failed to respond when given
10 notice pursuant to the provisions of Section 32A-5-27 NMSA
11 1978; ~~[or]~~
12 E. an alleged father who has failed to register
13 with the putative father registry within ten days of the
14 child's birth and is not otherwise the acknowledged father; or
15 F. an acknowledged or alleged father who prenatally
16 abandoned the child."