

1 SENATE BILL 417

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Mimi Stewart and Marianna Anaya and Leo Jaramillo

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10 AN ACT

11 RELATING TO ADOPTION; AMENDING AND ENACTING SECTIONS OF THE
12 ADOPTION ACT AND THE NEW MEXICO UNIFORM PARENTAGE ACT TO
13 PROVIDE FOR CONFIRMATORY ADOPTIONS.

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

18 "32A-5-3. DEFINITIONS.--As used in the Adoption Act:

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

25 B. "adoptee" means a person who is the subject of

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1 an adoption petition;

2 C. "adoption service" means:

3 (1) identifying a child for adoption and
4 arranging the adoption of the child;

5 (2) arranging or assisting in the process of
6 connecting or matching parents who may place a child for
7 adoption with prospective adoptive parents;

8 (3) providing counseling, advice or guidance
9 related to a potential adoption;

10 (4) receiving or disbursing funds or anything
11 of value on behalf of a prospective adoptive parent or to a
12 parent who may place or has placed a child for adoption;

13 (5) securing termination of parental rights to
14 a child or consent to adoption of the child;

15 (6) performing a background study on a child
16 and reporting on the study;

17 (7) performing a home study on a prospective
18 adoptive parent and reporting on the study;

19 (8) making determinations regarding the best
20 interests of a child and the appropriateness of an adoptive
21 placement for the child;

22 (9) performing post-placement monitoring of a
23 child until an adoption is final; or

24 (10) when there is a disruption before an
25 adoption of a child is final, assuming custody of the child and

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1 providing or facilitating the provision of child care or other
2 social services for the child pending an alternative placement
3 of the child;

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

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

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

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

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

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

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

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

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

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

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

5 (5) has established a parent-child
6 relationship pursuant to Article 2 of the New Mexico Uniform
7 Parentage Act;

8 G. "alleged father" means [~~an individual whom the~~
9 ~~biological mother has identified as the biological father, but~~
10 ~~the individual has not acknowledged paternity or registered~~
11 ~~with the putative father registry as provided for in Section~~
12 ~~32A-5-20 NMSA 1978] a person who alleges or is alleged to be a
13 genetic parent or possible genetic parent of a child, but whose
14 parentage has not been adjudicated. "Alleged father" does not
15 include:~~

16 (1) a presumed parent;

17 (2) a person whose parental rights have been
18 terminated or declared not to exist; or

19 (3) a donor;

20 H. "assisted reproduction" means a method of
21 causing pregnancy other than sexual intercourse. "Assisted
22 reproduction" includes:

23 (1) intrauterine or vaginal insemination;

24 (2) donation of eggs or sperm;

25 (3) donation of embryos;

1 (4) in-vitro fertilization and transfer of
2 embryos; and

3 (5) intracytoplasmic sperm injection;

4 I. "confirmatory adoption" means an action in which
5 a parent or parents of a child born through assisted
6 reproduction seek to confirm parentage of the child and obtain
7 a judgment of adoption;

8 ~~[H.]~~ J. "consent" means a document:

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

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

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

16 ~~[I.]~~ K. "convention adoption" means:

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

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

25 ~~[J.]~~ L. "counselor" means a person certified by the

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1 department to conduct adoption counseling in independent
2 adoptions;

3 ~~[K.]~~ M. "department adoption" means an adoption
4 when the child is in the custody of the department;

5 N. "donor" means a person who contributes a gamete
6 or gametes or an embryo or embryos to another person for
7 assisted reproduction or gestation, whether or not there is
8 consideration for the contribution. "Donor" does not include a
9 person who:

10 (1) provides gametes for use in assisted
11 reproduction with that person's spouse;

12 (2) gives birth to a child by means of
13 assisted reproduction, unless declared otherwise by a court
14 pursuant to a surrogacy agreement;

15 (3) is a parent of a child of assisted
16 reproduction pursuant to Article 7 of the New Mexico Uniform
17 Parentage Act; or

18 (4) is an intended parent pursuant to a
19 surrogacy agreement;

20 ~~[L.]~~ O. "foreign born child" means any child not
21 born in the United States who is not a citizen of the United
22 States;

23 ~~[M.]~~ P. "former parent" means a parent whose
24 parental rights have been terminated or relinquished;

25 ~~[N.]~~ Q. "full disclosure" means mandatory and

1 continuous disclosure by the investigator, agency, department
2 or petitioner throughout the adoption proceeding and after
3 finalization of the adoption of all known, nonidentifying
4 information regarding the adoptee, including:

- 5 (1) health history;
- 6 (2) psychological history;
- 7 (3) mental history;
- 8 (4) hospital history;
- 9 (5) medication history;
- 10 (6) genetic history;
- 11 (7) physical descriptions;
- 12 (8) social history;
- 13 (9) placement history; and
- 14 (10) education;

15 [~~Q.~~] R. "independent adoption" means an adoption
16 when the child is not in the custody of the department or an
17 agency;

18 [~~P.~~] S. "investigator" means an individual
19 certified by the department to conduct pre-placement studies
20 and post-placement reports;

21 [~~Q.~~] T. "office" means a place for the regular
22 transaction of business or performance of particular services;

23 U. "parent" means a person who has established a
24 parent-child relationship;

25 V. "parent-child relationship" means a relationship

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1 between a person and a child that is established by:

2 (1) the person having given birth to the
3 child;

4 (2) an adjudication of the person's maternity
5 or paternity;

6 (3) adoption of the child by the person;

7 (4) a presumption of parentage pursuant to
8 Section 40-11A-204 NMSA 1978;

9 (5) an effective acknowledgment of parentage
10 by the person pursuant to Article 3 of the New Mexico Uniform
11 Parentage Act, unless the acknowledgment has been rescinded or
12 successfully challenged; or

13 (6) the person's having consented to assisted
14 reproduction pursuant to Article 7 of the New Mexico Uniform
15 Parentage Act that resulted in the birth of the child;

16 ~~[R.]~~ W. "parental rights" means all rights of a
17 parent with reference to a child, including parental right to
18 control, to withhold consent to an adoption or to receive
19 notice of a hearing on a petition for adoption;

20 ~~[S.]~~ X. "placement" means the selection of a family
21 for an adoptee or matching of a family with an adoptee and
22 physical transfer of the adoptee to the family in all adoption
23 proceedings, except in adoptions filed pursuant to Paragraphs
24 (1) and (2) of Subsection C of Section 32A-5-12 NMSA 1978, in
25 which case placement occurs when the parents consent to the

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1 adoption, parental rights are terminated or parental consent is
2 implied;

3 ~~[F.]~~ Y. "post-placement report" means a written
4 evaluation of the adoptive family and the adoptee after the
5 adoptee is placed for adoption;

6 ~~[U.]~~ Z. "pre-placement study" means a written
7 evaluation of the adoptive family, the adoptee's biological
8 family and the adoptee;

9 ~~[V.]~~ AA. "presumed father" means:

10 (1) the husband of the biological mother at
11 the time the adoptee was born;

12 (2) an individual who was married to the
13 mother and either the adoptee was born during the term of the
14 marriage or the adoptee was born within three hundred days
15 after the marriage was terminated by death, annulment,
16 declaration of invalidity or divorce; or

17 (3) before the adoptee's birth, an individual
18 who attempted to marry the adoptee's biological mother by a
19 marriage solemnized in apparent compliance with law, although
20 the attempted marriage is or could be declared invalid and if
21 the attempted marriage:

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

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1 (b) is invalid without a court order,
2 the adoptee was born within three hundred days after the
3 termination of cohabitation;

4 [W-] BB. "record" means any petition, affidavit,
5 consent or relinquishment form, transcript or notes of
6 testimony, deposition, power of attorney, report, decree,
7 order, judgment, correspondence, document, photograph, invoice,
8 receipt, certificate or other printed, written, videotaped or
9 tape-recorded material pertaining to an adoption proceeding;

10 [X-] CC. "relinquishment" means the document by
11 which a parent relinquishes parental rights to the department
12 or an agency to enable placement of the parent's child for
13 adoption;

14 [Y-] DD. "resident" means a person who, prior to
15 filing an adoption petition, has lived in the state for at
16 least six months immediately preceding filing of the petition
17 for adoption or a person who has become domiciled in the state
18 by establishing legal residence with the intention of
19 maintaining the residency indefinitely; and

20 [Z-] EE. "stepparent adoption" means an adoption of
21 the adoptee by the adoptee's stepparent when the adoptee has
22 lived with the stepparent for at least one year following the
23 marriage of the stepparent to the custodial parent."

24 **SECTION 2.** A new section of the Adoption Act, Section
25 32A-5-3.1 NMSA 1978 is enacted to read:

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1 "32A-5-3.1. [NEW MATERIAL] APPLICABILITY OF TERMS.--To
2 the extent practicable, any provision of the Adoption Act
3 applicable to a father-child relationship applies to a mother-
4 child relationship or parent-child relationship, and any
5 provision of the Adoption Act applicable to a mother-child
6 relationship applies to a father-child relationship or parent-
7 child relationship."

8 **SECTION 3.** Section 32A-5-14 NMSA 1978 (being Laws 1993,
9 Chapter 77, Section 141, as amended) is amended to read:

10 "32A-5-14. PRE-PLACEMENT STUDY.--

11 A. The pre-placement study shall be performed as
12 prescribed by department regulation and shall include at a
13 minimum the following:

14 (1) an individual interview with each
15 petitioner;

16 (2) a joint interview with both petitioners;
17 if a joint interview is not conducted, an explanation shall be
18 provided in the pre-placement study;

19 (3) a home visit, which shall include an
20 interview with the petitioner's children and any other
21 permanent residents of the petitioner's home;

22 (4) an interview with the adoptee, if age
23 appropriate;

24 (5) an individual interview with each of the
25 adoptee's parents; if a parent is not interviewed, an

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1 explanation shall be provided in the pre-placement study;

2 (6) full disclosure to the petitioner;

3 (7) exploration of the petitioners' philosophy
4 concerning discussion of adoption issues with the adoptee;

5 (8) the initiation of a criminal records check
6 of each petitioner;

7 (9) a medical certificate dated not more than
8 one year prior to any adoptive placement assessing the
9 petitioner's health as it relates to the petitioner's ability
10 to care for the adoptee;

11 (10) a minimum of three letters of reference
12 from individuals named by the petitioner or memoranda of the
13 dates and contents of personal contacts with the references;

14 (11) a statement of the capacity and readiness
15 of the petitioner for parenthood and the petitioner's emotional
16 and physical health and ability to shelter, feed, clothe and
17 educate the adoptee;

18 (12) verification of the petitioner's
19 employment, financial resources and marital status;

20 (13) a report of a medical examination
21 performed on the adoptee within one year prior to the proposed
22 adoptive placement;

23 (14) a statement of the results of any prior
24 pre-placement study or initiation of a pre-placement study, if
25 any, of the petitioners done by any person; and

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1 (15) [~~the investigator shall attach~~] a copy of
2 proof of certification by the department for the investigator
3 to conduct pre-placement studies or, if the preparer of the
4 pre-placement study is out-of-state, the preparer shall attach
5 a statement setting forth qualifications that are equivalent to
6 those required of an investigator pursuant to the provisions of
7 Section 32A-5-13 NMSA 1978 and department regulations.

8 B. The pre-placement study shall be completed at
9 the cost of the petitioner.

10 C. Unless directed by the court, a pre-placement
11 study is not required in cases in which the child is being
12 adopted by a stepparent, a relative or a person named in the
13 child's deceased parent's will pursuant to Section 32A-5-12
14 NMSA 1978.

15 D. The pre-placement study shall be filed with the
16 court.

17 E. The requirements of this section shall not apply
18 to confirmatory adoptions."

19 SECTION 4. Section 32A-5-27 NMSA 1978 (being Laws 1993,
20 Chapter 77, Section 154, as amended) is amended to read:

21 "32A-5-27. NOTICE OF PETITION--FORM OF SERVICE--WAIVER.--

22 A. The petition for adoption shall be served by the
23 petitioner on the following, unless it has been previously
24 waived in writing:

25 (1) the department, by providing a copy to the

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1 court clerk for service pursuant to Section 32A-5-7 NMSA 1978;

2 (2) any person, agency or institution whose
3 consent or relinquishment is required by Section 32A-5-17 NMSA
4 1978, unless the notice has been previously waived;

5 (3) any acknowledged father of the adoptee;

6 (4) the legally appointed custodian or
7 guardian of the adoptee;

8 (5) the spouse of any petitioner who has not
9 joined in the petition;

10 (6) the spouse of the adoptee;

11 (7) the surviving parent of a deceased parent
12 of the adoptee;

13 (8) any person known to the petitioner having
14 custody of or visitation with the adoptee under a court order;

15 (9) any person in whose home the child has
16 resided for at least two months within the preceding six
17 months;

18 (10) the agency or individual authorized to
19 investigate the adoption under Section 32A-5-13 NMSA 1978; and

20 (11) any other person designated by the court.

21 B. Notice shall not be served on the following:

22 (1) an alleged father; and

23 (2) a person whose parental rights have been
24 relinquished or terminated.

25 C. The petitioner shall provide the clerk of the

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1 court with a copy of the petition for adoption, to be mailed to
2 the department pursuant to the provisions of Section 32A-5-7
3 NMSA 1978.

4 D. The notice shall state that the person served
5 shall respond to the petition within twenty days if the person
6 intends to contest the adoption and shall state that the
7 failure to so respond shall be treated as a default and the
8 person's consent to the adoption shall not be required.

9 Provided, however, that this provision shall not apply to an
10 agency, the department or an investigator preparing the post-
11 placement report pursuant to Section 32A-5-31 NMSA 1978. If an
12 agency, the department or an investigator preparing the post-
13 placement report wants to contest the adoption, it shall notify
14 the court within twenty days after completion of the post-
15 placement report.

16 E. Service shall be made pursuant to the Rules of
17 Civil Procedure for the District Courts. If the whereabouts of
18 a parent whose consent is required is unknown, the
19 investigator, department or agency charged with investigating
20 the adoption under Section 32A-5-13 NMSA 1978 shall investigate
21 the whereabouts of the parent and shall file by affidavit the
22 results of the investigation with the court. Upon a finding by
23 the court that information as to the whereabouts of a parent
24 has been sufficiently investigated and is still insufficient to
25 effect service in accordance with the Rules of Civil Procedure

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1 for the District Courts, the court shall issue an order
2 providing for service by publication.

3 F. As to any other person for whom notice is
4 required under Subsection A of this section, service by
5 certified mail, return receipt requested, shall be sufficient.
6 If the service cannot be completed after two attempts, the
7 court shall issue an order providing for service by
8 publication.

9 G. The notice required by this section may be
10 waived in writing by the person entitled to notice.

11 H. Proof of service of the notice on all persons
12 for whom notice is required by this section shall be filed with
13 the court before any hearing adjudicating the rights of the
14 persons.

15 I. The requirements of this section shall not apply
16 to confirmatory adoptions."

17 SECTION 5. Section 32A-5-34 NMSA 1978 (being Laws 1993,
18 Chapter 77, Section 161, as amended) is amended to read:

19 "32A-5-34. FEES AND CHARGES--DAMAGES.--

20 A. Prior to the final hearing on a petition, the
21 petitioner shall file a full accounting of all disbursements of
22 anything of value made or agreed to be made by or on behalf of
23 the petitioner in connection with an adoption. The accounting
24 report shall be signed under penalty of perjury. The
25 accounting report shall be itemized in detail and shall show

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1 the services reasonably relating to the adoption or to the
2 placement of the child for adoption that were received by the
3 parents of the child, by the child or by or on behalf of the
4 petitioner. The report shall also include the dates of each
5 payment and the names and addresses of each attorney,
6 physician, hospital, licensed adoption agency or other person
7 or organization who received any funds or any other thing of
8 value from the petitioner in connection with the adoption or
9 the placement of the child with the petitioner or who
10 participated in any way in the handling of the funds, either
11 directly or indirectly. The requirements of this subsection
12 shall not apply to confirmatory adoptions.

13 B. Only a prospective adoptive parent, acting
14 alone, through an agency or through an attorney who is licensed
15 in this state, shall make payments for services relating to the
16 adoption or to the placement of the adoptee for adoption for
17 allowed expenses only to third-party vendors, as reasonably
18 practical. These payments shall consist of reasonable and
19 actual fees or charges for:

20 (1) the services of an agency in connection
21 with an adoption;

22 (2) medical, hospital, nursing,
23 pharmaceutical, traveling or other similar expenses incurred by
24 a mother or the adoptee in connection with the birth or any
25 illness of an adoptee;

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1 (3) reasonable counseling services relating to
2 the adoption;

3 (4) living expenses of a mother and her
4 dependent children, including the adoptee, for a reasonable
5 time before the birth or placement of the adoptee and for no
6 more than six weeks after the birth or placement of the
7 adoptee;

8 (5) expenses incurred for the purposes of full
9 disclosure;

10 (6) legal services, court costs and traveling
11 or other administrative expenses connected with an adoption,
12 including any legal service performed for a parent who consents
13 to the adoption of a child or relinquishes the child to an
14 agency;

15 (7) preparation of a pre-placement study and
16 of a post-placement report during the pendency of the adoption
17 proceeding; or

18 (8) any other service or expense the court
19 finds is reasonably necessary for services relating to the
20 adoption or to the placement of the adoptee for adoption.

21 C. Any person who makes payments that are not
22 permitted pursuant to the provisions of this section is in
23 violation of the Adoption Act and subject to the penalties set
24 forth in Section 32A-5-42 NMSA 1978.

25 D. Any person who threatens or coerces a parent to

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1 complete the relinquishment of parental rights or to complete
2 the consent to an adoption, by demanding repayment of expenses
3 or by any other threat or coercion, shall be liable to the
4 parent for compensatory and punitive damages.

5 E. The accounting required in Subsection A of this
6 section is not applicable to stepparent adoptions or to
7 adoptions under the provisions of the Abuse and Neglect Act,
8 unless ordered by the court.

9 F. Nothing in this section shall be construed to
10 permit payment to a woman for conceiving and carrying a child."

11 SECTION 6. A new section of the Adoption Act, Section
12 32A-5-46 NMSA 1978, is enacted to read:

13 "32A-5-46. [NEW MATERIAL] CONFIRMATORY ADOPTION.--

14 A. Whenever a child is born as a result of assisted
15 reproduction and a person or persons who did not give birth is
16 a parent or parents and seeks to confirm parentage through an
17 adoption of the child, the court shall permit the parent to
18 file a petition for adoption in accordance with this section.

19 B. Notwithstanding any other provisions of the
20 Adoption Act, a petition for confirmatory adoption shall
21 include the following:

22 (1) signatures from all petitioners for
23 confirmatory adoption;

24 (2) if any of the petitioners are married, a
25 copy of the petitioners' marriage certificate;

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1 (3) a declaration signed by all petitioners
2 explaining the circumstances of the child's birth through
3 assisted reproduction, attesting that the petitioners are
4 parents and that there are no other persons with a claim to
5 parentage of the child; and

6 (4) a certified copy of the child's birth
7 certificate.

8 C. Submission of a complete petition for
9 confirmatory adoption constitutes notice of and written consent
10 to the confirmatory adoption, and the court shall not require
11 any additional notice or consent by any petitioner.

12 D. If a petitioner for confirmatory adoption
13 conceived the child through assisted reproduction using a
14 donor, the court shall not require notice of the confirmatory
15 adoption to that donor or the consent of that donor to the
16 confirmatory adoption.

17 E. Unless otherwise ordered by the court for good
18 cause shown and supported by written findings of the court
19 demonstrating good cause, for the purposes of evaluating and
20 granting a petition for confirmatory adoption pursuant to this
21 section, the court shall not require:

22 (1) placement;

23 (2) a pre-placement study or post-placement
24 report, including home visits, interviews, medical exams or
25 certificates, employment or financial resource verification,

1 letters of reference or examination of a petitioner's capacity
2 or readiness;

3 (3) counseling for any parent, presumed parent
4 or child;

5 (4) a criminal records check;

6 (5) documentation of fees or charges related
7 to the confirmatory adoption;

8 (6) a minimum residency in the home of the
9 petitioners;

10 (7) a best interest of the child assessment;
11 or

12 (8) a hearing or appearance.

13 F. The court shall grant a petition for
14 confirmatory adoption within thirty days of the petition being
15 filed upon finding that:

16 (1) the child was born through assisted
17 reproduction to parents joined in marriage, one of the
18 petitioners gave birth to the child and there are no competing
19 claims of parentage; or

20 (2) the child was born through assisted
21 reproduction with the consent of all petitioners, one of the
22 petitioners gave birth to the child, the other petitioner or
23 petitioners are parents and there are no competing claims of
24 parentage.

25 G. A petition for confirmatory adoption shall not

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1 be denied on the basis that:

- 2 (1) any of the petitioners' parentage is
- 3 already presumed or legally recognized in this state;
- 4 (2) the petitioners are unmarried; or
- 5 (3) there are more than two petitioners.

6 H. When parentage is presumed or legally recognized
7 under state law, the fact that a party did not petition for
8 confirmatory adoption shall not be considered as evidence in
9 determining:

- 10 (1) parental rights disputes; or
- 11 (2) the best interest of a child."

12 SECTION 7. Section 40-11A-704 NMSA 1978 (being Laws 2009,
13 Chapter 215, Section 7-704) is amended to read:

14 "40-11A-704. CONSENT TO ASSISTED REPRODUCTION.--

15 A. The intended parent or parents shall consent to
16 the assisted reproduction in a record signed ~~[by them before~~
17 ~~the placement of the eggs, sperm or embryos. Donors shall also~~
18 ~~consent to an assisted reproduction before retrieval of the~~
19 ~~donors' eggs or sperm]~~ before, on or after the day of birth of
20 the child or in an oral agreement entered into before
21 conception by each intended parent.

22 B. ~~[Failure of a parent to sign a consent required~~
23 ~~by]~~ The absence of evidence required pursuant to Subsection A
24 of this section does not preclude a finding of parentage if the
25 [parent during the first two years of the child's life] person

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1 resided [~~in the same household~~] with the child after birth and
2 openly held out the child as the [~~parent's~~] person's own
3 jointly with the birthing parent.

4 C. All papers relating to the assisted
5 reproduction, whether part of a court, medical or any other
6 file, are subject to inspection only upon an order of the
7 district court or with the consent, in a signed record, of:

- 8 (1) the donor or donors; and
9 (2) the parent or parents who consented to the
10 assisted reproduction pursuant to Subsection A of this section
11 or a child who was born as a result of the assisted
12 reproduction pursuant to Subsection A of this section if the
13 child is eighteen years of age or older."

14 SECTION 8. APPLICABILITY.--The provisions of this act
15 apply to actions commenced on or after the effective date of
16 this act.