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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 5\*  
135<sup>th</sup> General Assembly

## Bill Analysis

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**Version:** As Reported by Senate Judiciary

**Primary Sponsors:** Reps. Ray and Baker

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### SUMMARY

- Makes various changes to Ohio's Adoption Law, including the following:
  - Permits a public children services agency (PCSA) or private child placing agency (PCPA) to accept the voluntary permanent surrender of a child by the child's parents while the child is in the agency's temporary custody;
  - Makes changes to the requirements governing who may adopt and requires spousal consent (instead of support) in certain cases;
  - Permits adult adoption of a person with a developmental disability (rather than solely an intellectual disability as in current law);
  - Makes various changes to provisions governing consent to adoption and when consent is not required;
  - Requires the court to apply the amount of time a child has lived in the home of a child's relative, kinship caregiver, legal custodian, or guardian (in addition to the child's foster caregiver in continuing law) who is adopting the child prior to the date that person filed the adoption petition toward the six-month waiting period required before an adoption is final;
  - Requires the court to notify any agency with permanent custody of the child to be adopted of an adoption petition filing and the adoption hearing;

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\* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

- Makes changes to the language required in notices of the filing of an adoption petition and to certain requirements of adoption proceedings regarding closed hearings and recordkeeping;
- Increases to \$6,000, from \$3,000, the maximum amount that an adoption petitioner may disburse to the birth mother for living expenses incurred during pregnancy;
- Permits a court to reconsider and vacate the adoption decree of a child if there is clear and convincing evidence the child was a victim of trafficking in persons;
- Makes various other changes regarding the issuance and appeal of adoption decrees;
- Allows for a foreign decree of adoption to be accepted and considered final in Ohio if certain conditions are met, rather than requiring the adoptive parent to petition the court for finalization of the adoption;
- Applies the best interest factors set forth in continuing law governing contested adoptions to other continuing Adoption Law provisions where “best interest” is not defined in current law;
- Adds and removes adoptions by certain individuals (e.g., by a child’s adult sibling or grandparent) as being exempt from aspects of the adoption procedure;
- Recodifies certain Adoption Law provisions, defines terms used in continuing law, and makes other updates.

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## DETAILED ANALYSIS

### Voluntary permanent custody surrender agreement

#### Surrender of child in temporary custody

The bill allows the parents of a child who is in the temporary custody of a public children services agency (PCSA) or private child placing agency (PCPA), subject to juvenile court approval, to enter into an agreement surrendering the child into the permanent custody of that PCSA or PCPA using the process provided under continuing law. Also, the parents, guardian, or other persons having custody of the child may voluntarily surrender custody to a PCSA or PCPA, under continuing law.

The bill also requires the PCPA or PCSA requesting court approval of a permanent surrender agreement to file *with the court an original or amended case plan*, rather than *a case plan* [...] *with the court* as in current law, at the same time it files its request for approval of the agreement.<sup>1</sup>

#### Effect of surrender agreement

The bill repeals the requirement that the parent must consent to a child’s adoption when the parent has entered into a voluntary surrender agreement unless certain conditions are met, including, for example, that the parent signs the applicable components of the form prescribed

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<sup>1</sup> R.C. 5103.15, with conforming changes in R.C. 2151.412 and 5103.153.

by the Ohio Department of Job and Family Services under continuing law for a parent of a child who, if adopted, will become an adopted person.<sup>2</sup>

## Who may adopt

The bill repeals the provision permitting the unmarried minor parent of the person to be adopted to adopt.

Additionally, with regard to an adoption by a married adult without the other spouse joining as a petitioner, the bill makes the following changes:

1. In an adoption in which the other spouse is a parent of the person to be adopted (a stepparent adoption), the other spouse consents to the adoption (instead of “supports” it as in current law);
2. The failure of the other spouse to join in the petition or to consent (instead of “support” under current law) to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain either the consent (instead of “support”) or refusal of the other spouse.<sup>3</sup>

## Adult adoption

Ohio law permits adult adoption only under certain circumstances. The bill changes some of those circumstances.

The bill allows an adult with a developmental disability, rather than solely an intellectual disability as in current law, to be adopted. Continuing law defines “developmental disability,” and, under this definition, an intellectual disability is included as a developmental disability. Besides including intellectual disability, “developmental disability” is a severe, chronic disability that is characterized by all of the following:

- It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness.
- It is manifested before age 22.
- It is likely to continue indefinitely.
- It results in one of the following:
  - In the case of a person under three years of age, at least one developmental delay or a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay;

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<sup>2</sup> R.C. 3107.071 (repealed), with conforming changes in R.C. 3107.07(C), 3107.083, 3107.11(A), 3107.19, and 3107.46.

<sup>3</sup> R.C. 3107.03.

- In the case of a person at least three years of age but under six years of age, at least two developmental delays;
- In the case of a person six years of age or older, a substantial functional limitation in at least three areas of major life activity.
- It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.<sup>4</sup>

## When consent is not required

Continuing law provides that consent for adoption is not required of certain individuals in certain circumstances. The bill amends those circumstances, as shown in italics, as follows:

- A parent has failed without justifiable cause to *have* (changed from *provide* in current law) more than de minimis contact with the minor or to provide *meaningful and regular* maintenance and support of the minor for a period of one year preceding the adoption filing (changed from for a period of *at least* one year preceding *either* the filing of the adoption petition *or the placement of the minor in the petitioner's home*).
- A putative father when either of the following applies:
  - The putative father fails to register as such with the Ohio putative father registry in accordance with a rule established by the Ohio Department of Job and Family Services (ODJFS);
  - The court finds that the putative father is not the child's father, has failed without justifiable cause to have more than de minimis contact with the minor or to provide meaningful and regular maintenance and support for the minor (rather than finding that the putative father has willfully abandoned or failed to care for and support the minor, as in current law), or the putative father has willfully failed to meaningfully and regularly care for and support the minor's mother (changed from abandoned) during her pregnancy and up to the time of surrender of the minor or the minor's placement in the home of the petitioner or petitioners, whichever occurs first.
- A parent who has entered into a *properly executed* voluntary permanent custody surrender.
- A parent whose parental rights have been terminated by order of a juvenile court or *any court of competent jurisdiction*.
- Any *agency having permanent custody* of the person to be adopted whose reasons for withholding consent are found by the court to be unreasonable (instead of, as in current law, any *legal guardian or lawful custodian* of the person to be adopted, *other than a parent who has failed to respond in writing to a request for consent for a period of 30 days*

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<sup>4</sup> R.C. 3107.02(B) and (F); R.C. 2151.011 and 5123.01(Q), not in the bill.

or whose *written* reasons for withholding consent are found by a court to be unreasonable).

- A juvenile court, agency, or person notified of an adoption hearing who fails *to comply with the requirements described in the bill under “Notice changes”* (see below) (instead of, as in current law, a notified court, agency, or person who fails *to file an objection to a petition within 14 days after proof is filed that the notice was given*).
- A parent who has been convicted of or pleaded guilty to an offense that resulted in any of the following:
  - The death of the minor’s other parent, legal custodian, guardian, or primary care provider.
  - A term of incarceration of that parent that is expected to extend beyond the minor’s age of majority.

The bill removes the following individuals who are not required to give consent under current law:

1. A parent who is married to the petitioner and supports the adoption.
2. The spouse of the person to be adopted, if the spouse’s failure to give consent is the result of circumstances that make it impossible or difficult to obtain the spouse’s consent or refusal.

Finally, the consent of a legal guardian or guardian ad litem of an incompetent parent is not required if the court finds the consent is being withheld unreasonably after examining the reasons given for not consenting. Under current law, the court can only examine *written* reasons. Under continuing law, consent to adoption is not required of any guardian, custodian, or other party who has temporary custody of the child.<sup>5</sup>

## Filing of consents and relinquishment of consents

The bill provides that the required consents and relinquishment of consents that must be filed with the adoption petition, must be *certified* copies, instead of *ordinary* copies, as in current law.<sup>6</sup>

## Waiting period

Under the bill, the court must apply the amount of time a child has lived in the home of the child’s relative, kinship caregiver, legal custodian, or guardian adopting the child prior to the date of the adoption petition filing toward the six-month waiting period required before an adoption is finalized. This time period is the same as continuing law (recodified as described below under “**Recodification**”) applies to foster caregivers and related-person adoptions.<sup>7</sup>

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<sup>5</sup> R.C. 3107.07, with conforming changes in R.C. 2937.02 and 3107.11(A).

<sup>6</sup> R.C. 3107.05.

<sup>7</sup> R.C. 3107.02(A)(2).

## Notice of adoption hearing

### Changes to notification requirements

Under the bill, the court must give notice of the filing of the adoption petition at least 30 days before the hearing date (rather than 20 days as in current law). The bill adds that the court must notify any agency with permanent custody of the child to be adopted that an adoption petition has been filed and of the time and place of the hearing.

The bill also changes the notice under continuing law required to be given to any guardian, custodian, or other party having temporary or permanent custody of the child by requiring the custodian to be a legal custodian.<sup>8</sup>

### Notice changes

The bill also changes the language in the notice the clerk of court must send to a parent on the filing of an adoption petition that alleges that a parent has failed, without justifiable cause, to have more than de minimis contact with, or to provide for, the maintenance and support of the minor.

Regarding the changes to the notice about the legal effect of a final decree of adoption, the bill requires the notice to state:

A FINAL DECREE OF ADOPTION, IF GRANTED, WILL TERMINATE YOUR PARENTAL RIGHTS AND RESPONSIBILITIES, INCLUDING THE RIGHT TO CONTACT THE MINOR. ALL LEGAL RELATIONSHIPS BETWEEN THE MINOR AND YOU AND YOUR RELATIVES WILL TERMINATE, SO THAT THE MINOR IS A STRANGER TO YOU AND YOUR RELATIVES FOR ALL PURPOSES, WITH THE EXCEPTION OF DIVISION (A)(1)(b) OF SECTION 3107.15 OF THE REVISED CODE.

Under current law, it states:

A FINAL DECREE OF ADOPTION, IF GRANTED, WILL RELIEVE YOU OF ALL PARENT RIGHTS AND RESPONSIBILITIES, INCLUDING THE RIGHT TO CONTACT THE MINOR, AND, EXCEPT WITH RESPECT TO A SPOUSE OF THE ADOPTION PETITIONER AND RELATIVES OF THAT SPOUSE, TERMINATE ALL LEGAL RELATIONSHIPS BETWEEN THE MINOR AND YOU AND THE MINOR'S OTHER RELATIVES SO THAT THE MINOR THEREAFTER IS A STRANGER TO YOU AND THE MINOR'S FORMER RELATIVES FOR ALL PURPOSES, WITH THE EXCEPTION OF DIVISION (A)(1)(b) OF SECTION 3107.15 OF THE REVISED CODE.

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<sup>8</sup> R.C. 3107.11(A).

R.C. 3107.15(A)(1)(b), referenced in the notice's language under both current law and the bill, is continuing law that allows an adopted person's legal parents to be notified that the adopted person's sibling has been placed into out-of-home care.

Regarding changes to the notice about the right to contest the adoption, the bill requires the notice to provide the following:

IF YOU OBJECT TO THE ADOPTION, AND THE MINOR WAS LESS THAN ONE YEAR OF AGE AT THE TIME THE PETITION FOR ADOPTION WAS FILED, YOU MUST DO BOTH OF THE FOLLOWING:

- (1) FILE A WRITTEN OBJECTION WITH THE COURT WITHIN FOURTEEN DAYS FROM THE DATE OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING.
- (2) APPEAR AT THE HEARING.

IF YOU OBJECT TO THE ADOPTION, AND THE MINOR WAS ONE YEAR OF AGE OR OLDER AT THE TIME OF THE PETITION FOR ADOPTION WAS FILED, YOU MUST DO BOTH OF THE FOLLOWING:

- (1) FILE A WRITTEN OBJECTION WITH THE COURT WITHIN TWENTY-EIGHT DAYS FROM THE DATE OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING. FOR GOOD CAUSE SHOWN, THE COURT MAY EXTEND THE TIME IN WHICH A WRITTEN OBJECTION MAY BE FILED.
- (2) APPEAR AT THE HEARING.

A FINAL DECREE OF ADOPTION MAY BE ENTERED IF YOU FAIL TO FILE A WRITTEN OBJECTION ON TIME AND APPEAR AT THE HEARING.

Under current law, the "right to contest" notice language states:

IF YOU WISH TO CONTEST THE ADOPTION, YOU MUST FILE AN OBJECTION TO THE PETITION WITHIN FOURTEEN DAYS AFTER PROOF OF SERVICE OF NOTICE OF THE FILING OF THE PETITION AND OF THE TIME AND PLACE OF HEARING IS GIVEN TO YOU. IF YOU WISH TO CONTEST THE ADOPTION, YOU MUST ALSO APPEAR AT THE HEARING. A FINAL DECREE OF ADOPTION MAY BE ENTERED IF YOU FAIL TO FILE AN OBJECTION TO THE ADOPTION PETITION OR APPEAR AT THE HEARING.

The bill also adds new language to the notice regarding the right to legal representation:

RIGHT TO AN ATTORNEY: YOU HAVE A RIGHT TO BE REPRESENTED BY AN ATTORNEY. IF YOU ARE INDIGENT AND UNABLE TO EMPLOY AN ATTORNEY, YOU ARE ENTITLED TO HAVE



AN ATTORNEY PROVIDED FOR YOU PURSUANT TO CHAPTER 120. OF THE REVISED CODE. YOU MUST CONTACT THE COURT ON RECEIPT OF THIS NOTICE IF YOU ARE REQUESTING THAT AN ATTORNEY BE APPOINTED FOR YOU.

THE COURT SHALL CONSIDER A WRITTEN REQUEST FOR AN ATTORNEY OR A NOTICE OF APPEARANCE FILED BY AN ATTORNEY ON YOUR BEHALF, IN ACCORDANCE WITH THE ABOVEMENTIONED TIME FRAMES, AS GROUNDS FOR AN EXTENSION TO FILE WRITTEN OBJECTIONS.<sup>9</sup>

## **Adoption hearings**

### **Admittance to closed court**

The bill allows any person the court deems appropriate to be admitted to a closed adoption hearing. Continuing law provides for the admittance of essential officers of the court, the parties, the witnesses of the parties, counsel, persons who have not previously consented to an adoption but who are required to consent, and representatives of the agencies present to perform their official duties.<sup>10</sup>

### **Recordkeeping**

The bill allows the adoption proceedings required to be recorded in continuing law to be recorded by electronic means and preserved as an electronic record, instead of being recorded and preserved only in a book as in current law.<sup>11</sup>

## **Accounting before adoption finalization**

### **Living expenses for birth mother**

The bill increases to \$6,000 from \$3,000 the maximum amount that, under continuing law, may be disbursed to the birth mother for living expenses incurred during pregnancy and may be paid by a petitioner to the birth mother through an attorney or agency arranging a minor's adoption.<sup>12</sup>

### **Exception for good cause shown**

The bill creates an exception for good cause shown to the prohibition on a court issuing a final decree of adoption or finalizing an interlocutory order of adoption of a minor until at least ten days after the final accounting required under continuing law is filed.<sup>13</sup>

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<sup>9</sup> R.C. 3107.11(B); R.C. 3107.15(A)(1)(b), not in the bill.

<sup>10</sup> R.C. 3107.17(A).

<sup>11</sup> R.C. 3107.17(C).

<sup>12</sup> R.C. 3107.055(C)(9).

<sup>13</sup> R.C. 3107.055(D).

## Issuance of final decree

Under the bill, the court may issue an interlocutory order or final decree of adoption if it finds that all required consents have been obtained or are not necessary and that the adoption is in the best interest of the person to be adopted. Current law allows, *at the conclusion of the hearing*, the court to issue an interlocutory order or final decree of adoption if it finds that all required consents have been obtained or *excused* and that the adoption is in the best interest of the person to be adopted *as supported by the evidence*.

Further, the bill prohibits the final decree of adoption from being issued less than six months from the date of placement of the person to be adopted in the petitioner's home. Current law prohibits it from being issued less than six months or more than one year from the date the person to be adopted is placed in the petitioner's home.

"Date of placement" is defined in the bill as the date on which a child is living with the child's prospective adoptive parent and becomes eligible for adoption pursuant to statutory authority, judgment decree or court order, or as otherwise authorized by law.

The bill repeals the prohibition on the court considering the age of the petitioner, if the petitioner is old enough to adopt in accordance with continuing law, when determining whether the adoption is in the best interest of the person to be adopted. The bill also repeals allowing the court to determine the agency or person to have temporary or permanent custody of the person to be adopted, if that person was placed in the petitioner's home in violation of the law.<sup>14</sup>

## Appeal of adoption decree

Upon a motion by any person, the bill permits a court to reconsider and vacate the adoption decree of a child if there is clear and convincing evidence the child was a victim of trafficking in persons. A conviction is not required to reconsider the adoption.

Additionally, the bill prohibits, except in the circumstance described above, a decree from being *vacated by the court upon a motion*, instead of *questioned* as in current law, more than six months after the decree is issued even for fraud, misrepresentation, failure to give required notice, or lack of jurisdiction, unless certain conditions are met as provided in continuing law.<sup>15</sup>

## Recognition of foreign adoption decrees

The bill allows for a foreign decree of adoption to be accepted and considered final in Ohio if certain conditions are met, rather than requiring the adoptive parent to petition the court for finalization of the adoption.

Under the bill, a final judgment of adoption granted by a judicial, administrative, or executive body of a jurisdiction or country other than the United States has the same force and effect in Ohio as that given to a judgment of adoption entered by an Ohio court of competent jurisdiction, without additional proceedings or documentation, if both of the following apply:

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<sup>14</sup> R.C. 3107.01(G) and 3107.14(C) and (D).

<sup>15</sup> R.C. 3107.16.

1. Either adopting parent is an Ohio resident;
2. The validity of the foreign adoption has been verified by the granting of an IR-3, IH-3, or successor immigrant visa, for the child by the U.S. Citizenship and Immigration Services of the U.S. Department of Homeland Security or its successor agency.

Notwithstanding any other provision of law to the contrary, an adoptive parent cannot be required to petition an Ohio court for the child's adoption, and the foreign adoption must be considered final under Ohio laws if the above conditions are met.

Either adoptive parent, a guardian, or a guardian ad litem is allowed to petition the court of the requestor's county of residence to register a foreign adoption in Ohio. The court is allowed to specify a change of name for the child and, if recommended by a physician, a revised birth day on the birth certificate. If the petition is granted, the court must order the Ohio Department of Health (ODH) to issue a foreign birth record for the adopted person.

Under current law, a decree or certificate of adoption issued under the laws of a foreign country that is verified and approved by the U.S. Citizenship and Immigration Services<sup>16</sup> must be recognized in Ohio. An adoptive parent may file a petition requesting that the court issue a final decree of adoption or an interlocutory order of adoption if both of the following apply:

1. A child born in a foreign country is placed with the adoptive parent or parents in Ohio for the purpose of adoption;
2. The adoption of the child previously has been finalized in the country of the child's birth.

Proof of finalization of the adoption outside the United States is prima-facie evidence of the consent of any persons who are required to give consent to the adoption, even if the foreign decree or certificate of adoption was issued with respect to only one of two adoptive parents who seek to adopt the child in Ohio.

At the request of a parent who has adopted a child outside the United States, the court of the adoptive parent's county of residence must order the ODH to issue a foreign birth record for the adopted child.<sup>17</sup>

## **Child's best interest factors**

### **Application to Adoption Law**

The bill defines "best interest" as the factors a court uses to determine a child's best interests under continuing law governing contested adoptions. When a court makes a determination in a contested adoption concerning the best interest of a child, the court must consider all relevant factors, including, for example, the following factors:

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<sup>16</sup> Current law refers to the Immigration and Naturalization Service of the United States. That name has been changed under federal law and the analysis uses the current name.

<sup>17</sup> R.C. 3107.18.

1. The least detrimental available alternative for safeguarding the child’s growth and development (under continuing law “the least detrimental available alternative” means the alternative that would have the least long-term negative impact on the child);
2. The child’s age and health when the best interest determination is made and, if applicable, when the child was removed from the home;
3. The child’s wishes in any case in which the child’s age and maturity makes this feasible.<sup>18</sup>

Further, under the bill, those best interest factors also apply to all other continuing Adoption Law provisions where “best interest” is not defined, including, for example, the following:

1. Granting a petition to adopt a minor if written consent has been given by the minor, if more than 12 years of age, unless the court finds that it is in the minor’s best interest that the minor’s consent is not required.
2. Withdrawal of a consent to adoption before the entry of an interlocutory order or the final decree of adoption, if the court finds that it is in the best interest of the person to be adopted.
3. Exemption from a prefinalization assessment if the petitioner is the minor’s stepparent, unless a court determines it is in the minor’s best interest.<sup>19</sup>

### **In contested adoption**

Under the bill, when a court determines a child’s best interest in a contested adoption, the court cannot consider the petitioner’s age if continuing law authorizes the petitioner is to adopt.

The bill also states that the petitioner has the burden of proving the child’s best interest by a preponderance of the evidence. Under current law, the person who contests the adoption has the burden of providing the court material evidence needed to determine what is in the child’s best interest and must establish that the child’s current placement is not the least detrimental available alternative.<sup>20</sup>

### **Exceptions to adoption requirements**

The bill adds and removes adoptions by certain individuals as being exempt from aspects of the adoption procedure, as discussed below.

#### **Adoption arrangement by agency or attorney**

Under the bill, an adoption by a child’s stepparent, grandparent, adult sibling, legal custodian, or guardian is exempt from the continuing law provision requiring the use of an agency or attorney to arrange an adoption. For purposes of Adoption Law, the bill specifies that the

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<sup>18</sup> R.C. 3107.01(D) and 3107.161(A) and (B).

<sup>19</sup> R.C. 3107.06(D), 3107.084(B), and 3107.12(C).

<sup>20</sup> R.C. 3107.161(C) and (D).

terms “grandparent,” “adult sibling,” “legal custodian,” and “guardian” include that individual’s spouse when a joint adoption is pending.<sup>21</sup>

### **Preliminary estimate and final accounting**

The bill specifies that provisions governing preliminary estimate and final accounting for an adoption proceeding do not apply to an adoption by a child’s grandparent, adult sibling, legal custodian, or guardian. Under continuing law, the exception also applies to the child’s stepparent, but the bill repeals the phrase “whose spouse is a biological or adoptive parent of the minor” that follows “stepparent” in current law.<sup>22</sup>

### **Duties of an assessor prior to execution of consent**

The bill exempts an adult sibling or grandparent of a child to be adopted from continuing law governing assessor duties prior to the execution of the parent’s consent to adoption. Continuing law already exempts a child’s stepparent or parent who resides in another state from those requirements.<sup>23</sup>

### **Placement of children**

The bill exempts an adoption by a child’s adult sibling from continuing law governing the placement of a child into the temporary or permanent custody of an association or institution certified to place children in foster homes or for adoption (such as a PCSA or PCPA). Continuing law already exempts adoptions by a child’s stepparent, grandparent, legal custodian, or guardian from those requirements.

The bill also removes “a grandparent’s husband or wife” from the current exemption. However, for purposes of Adoption Law, the bill specifies that “grandparent,” “adult sibling,” “legal custodian,” and “guardian” include that individual’s spouse when a joint adoption is pending.<sup>24</sup>

### **Executing consent to adoption**

The bill changes the provision authorizing self-consent to a person’s own adoption if executed in the presence of the court, by allowing the person to do it “whether a minor or an adult.”<sup>25</sup>

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<sup>21</sup> R.C. 3107.011.

<sup>22</sup> R.C. 3107.055(F).

<sup>23</sup> R.C. 3107.082.

<sup>24</sup> R.C. 3107.011(A) and 5103.16.

<sup>25</sup> R.C. 3107.08.

## Probate court jurisdiction for adoption petitions

The bill specifies that, except as otherwise provided by law, the probate court has exclusive jurisdiction to hear and determine adoption petitions.<sup>26</sup> Under existing law, probate courts are defined as the “court” referenced under the adoption law.<sup>27</sup>

## Termination of child support order

Under the bill, the court, upon issuance of a final adoption decree, must notify the child support enforcement agency administering a child support order for the adopted child. On receipt of that notice, the agency must terminate any order of support that exists for that child.<sup>28</sup>

## Recodification

The bill recodifies certain Adoption Law provisions. The following table shows the new organization under the bill.

Topic	Current Law	Bill
Cross-reference of kinship caregiver, permanent custody, and planned permanent living arrangement definitions	R.C. 3107.02(F)	R.C. 3107.01(J), (P), and (R)
Physical examination of individual to be adopted	R.C. 3107.02(D)	R.C. 3107.12(B)
Timeline for submitting adoption petition	R.C. 3107.051	R.C. 3107.052
Length of placement before adoption finalization	R.C. 3107.13 (repealed in the bill)	R.C. 3107.02(A)(1) and (2) <sup>29</sup>
Limitations on the issuance of adoption decree	R.C. 3107.14(C) (first paragraph)	R.C. 3107.14(C) (second paragraph)
Dismissal of adoption petition	R.C. 3107.14(D)	R.C. 3107.14(D)(1) to (3)

## Adoption Law definitions

The bill also adds the following defined terms for purposes of Adoption Law (and affects, as a result, how continuing law is construed in situations in which the terms are used but not defined):<sup>30</sup>

<sup>26</sup> R.C. 2101.24.

<sup>27</sup> R.C. 3107.01(G).

<sup>28</sup> R.C. 3107.20.

<sup>29</sup> With conforming change in R.C. 3107.14(C).

<sup>30</sup> R.C. 3107.01(A), (J), (L), (N), (O), and (Q) and 5103.16(E)(2)(a); R.C. 2151.011(B)(21), not in the bill.

- “Adoption” is to create the legal relationship of parent and child between the petitioner and the adopted person, as if the adopted person were a legitimate blood descendent of the petitioner, for all purposes including inheritance and applicable of statutes, documents, and instruments, whether executed before or after the adoption is decreed, and which do not expressly exclude an adopted person from their operation or effect. “Legal custodian” is a person who has been granted the legal custody of a child by a court of competent jurisdiction.
- “Legal custody” is legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.
- “Parent” is a legally recognized natural or adoptive parent of a child.
- “Party” is a petitioner, adoptee, or any other person who is part of an adoption proceeding and whose consent to the adoption is necessary but has not been obtained.
- “Placement” is the act by a PCSA, PCPA, or a parent who is utilizing an agency or attorney that is intended to arrange for the care of custody of a child in accordance with laws governing the placement of children.

## Other updates

The bill makes the following updates to Adoption Law:

- Enacts a section in Adoption Law (R.C. Chapter 3107) that states a petition for adoption is subject to the placement of children requirements set forth in continuing law in Placement of Children Law (R.C. Chapter 5103).<sup>31</sup>
- Changes gendered terms to gender neutral terms, for example, “he” becomes “the person” and “mother” and “father” become “parents.”<sup>32</sup>
- Specifies that, after filing an adoption petition, the court must fix a time and place for hearing the petition at any time *not earlier*, rather than *more* in current law, than 30 days after which the minor is placed in the petitioner’s home.<sup>33</sup>
- Changes a provision permitting a court to issue “an interlocutory order of adoption *which by its own terms* automatically becomes a final order of adoption” to instead permitting

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<sup>31</sup> R.C. 3107.051.

<sup>32</sup> R.C. 3107.04 and 3107.06.

<sup>33</sup> R.C. 3107.11(A).

“an interlocutory order of adoption *that* automatically becomes a final decree of adoption.”<sup>34</sup>

- Simplifies a provision to “[a] consent to adoption is irrevocable and cannot be withdrawn after an interlocutory entry or final decree of adoption” from “[...] cannot be withdrawn after the entry of an interlocutory order or after the entry of a final decree of adoption when no interlocutory order has been entered.”
- Removes the words (appearing in added italics) from “[a] consent to adoption may be withdrawn prior to the entry of an interlocutory order or prior to the entry of a final decree of adoption *when no interlocutory order has been entered* if the court finds after hearing that the withdrawal is in the best interest of the person to be adopted and the court by order authorizes the withdrawal of consent.”<sup>35</sup>
- Applies the defined term “legal custody” to a child’s placement for adoption when the parent or parents are deceased or have abandoned the child, rather than its limited use in the current law definition of “legal custodian” for purposes of the exemption of such a custodian from the law regulating acceptance of permanent or temporary custody of a child.<sup>36</sup>
- Specifies that proof of the *service* of notice of filing an adoption petition, rather than proof of *giving notice* as in current law, must be filed with the court before the petition is heard.<sup>37</sup>

## HISTORY

Action	Date
Introduced	02-15-23
Reported, H. Families & Aging	06-20-23
Passed House (95-0)	06-27-23
Reported, S. Judiciary	--

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<sup>34</sup> R.C. 3107.14(C).

<sup>35</sup> R.C. 3107.084.

<sup>36</sup> R.C. 5103.16(E)(2).

<sup>37</sup> R.C. 3107.11(C).