



# State of Tennessee

## PUBLIC CHAPTER NO. 263

### SENATE BILL NO. 528

By Haile, Crowe, Massey, Reeves, Campbell, White, Walley

Substituted for: House Bill No. 551

By Littleton, Helton-Haynes, White, Bulso, Harris, Hakeem, Slater, Russell, Bricken, Alexander, Whitson, Wright, Butler, Cepicky, Terry, Moody, Howell, Lafferty

AN ACT to amend Tennessee Code Annotated, Title 36; Title 37 and Title 68, Chapter 3, Part 3, relative to children.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-1-109(a)(1)(B)(ii), is amended by deleting the language "counseling" and substituting instead "counseling, which may occur in person or by virtual means,".

SECTION 2. Tennessee Code Annotated, Section 36-1-111(o)(6)(C), is amended by deleting the subdivision and substituting instead:

(C) If the person, the department, or the licensed child-placing agency to whom the child is surrendered or to whom parental consent is given, has physical custody or has otherwise complied with subdivision (d)(6), and if there has been full compliance with the other provisions of this section, then the court shall, contemporaneously with the surrender or the filing of an adoption petition, immediately upon written motion by the person or the person's attorney, or by the department or the licensed child-placing agency, enter an order giving the person, the licensed child-placing agency, or the department guardianship or partial guardianship of the child.

SECTION 3. Tennessee Code Annotated, Section 36-1-112, is amended by adding the following as a new subsection:

( ) The court may reduce the three-day revocation period to a twenty-four (24) hour revocation period if the birth parent is represented by an attorney who is licensed to practice law in this state.

SECTION 4. Tennessee Code Annotated, Section 36-1-113(g)(10), is amended by deleting the subdivision and substituting instead:

(10)(A) The parent has been convicted of one (1) of the following offenses from which the child was conceived:

(i) Aggravated rape, pursuant to § 39-13-502;

(ii) Rape, pursuant to § 39-13-503;

(iii) Rape of a child, pursuant to § 39-13-522;

(iv) Especially aggravated rape, pursuant to § 39-13-534; or

(v) Especially aggravated rape of a child, pursuant to § 39-13-535; and

(B) A certified copy of the conviction suffices to prove this ground;

SECTION 5. Tennessee Code Annotated, Section 36-1-113(h)(1), is amended by deleting subdivision (h)(1)(D) and substituting instead the following:

(D) If a juvenile court has made a finding of severe child abuse as defined in § 37-1-102, then a petition required by this subdivision (h)(1)(D) must be filed within ninety (90) days of the finding;

(E) If a child has been in foster care under the responsibility of the department for six (6) months or more and the child's parents have not made reasonable progress toward obtaining custody of the child during the six-month period; or

(F) If two (2) or more of the grounds for termination of parental rights set out in subsection (g) apply to the child's parent.

SECTION 6. Tennessee Code Annotated, Section 36-1-117(c)(2), is amended by deleting the subdivision and substituting instead:

(2) The biological father has claimed to the child's biological mother, or the petitioners or their attorney, or to the department, a licensed child-placing agency, or a licensed clinical social worker who is involved in the care, placement, supervision, or study of the child, that the biological father believes that the biological father is the father of the child and has either paid financial support to or for the benefit of the child or the child's mother during the pregnancy or when the mother had physical custody of the child, or has made a court filing or appearance consistent with the biological father's claim of paternity; provided, that if the biological father has previously notified the department of the biological father's claim to paternity of the child pursuant to the putative father registry, § 36-2-318(e)(3), then the biological father is subject to all requirements for waiver of notice provisions of § 36-2-318(f)(2) and to all requirements for filing a paternity petition;

SECTION 7. Tennessee Code Annotated, Section 36-1-117(c)(4), is amended by deleting the subdivision and substituting instead:

(4) The biological father has openly lived with the child and has held himself out as the father of the child; provided, that if custody of the child has been removed from the biological mother by court order, notice shall be given to any man who was openly living with the child at the time of the initiation of the custody or guardianship proceeding that resulted in the removal of the custody or guardianship of the child from the biological mother or biological father, if the man held himself out to be the father of the child at the time of the removal; or

SECTION 8. Tennessee Code Annotated, Section 36-1-122(b)(2), is amended by deleting the subdivision and substituting instead:

(2) In no event, for any reason, shall an adoption be overturned by a trial court or collaterally attacked by any person or entity after nine (9) months from the date of entry of the final order of adoption by a court of competent jurisdiction. This subdivision (b)(2) is intended as a statute of repose.

SECTION 9. Tennessee Code Annotated, Section 37-2-414(b)(2), is amended by adding the following language between the first and second sentences of the subdivision:

The department shall prioritize efforts to locate an appropriate kinship foster care placement for the child for at least thirty (30) days following removal from the child's home.

SECTION 10. Tennessee Code Annotated, Section 37-2-414(b), is amended by adding the following new subdivision:

( ) The department shall develop and implement eligibility standards for temporary kinship placements.

SECTION 11. Tennessee Code Annotated, Section 37-2-414(e), is amended by adding the following subdivision (e)(1) and redesignating the current language as subdivision (e)(2):

(1) Except when placement is in the best interest of the child, the department shall not place a child with, or allow a child to remain in the home of, a kinship foster parent if the kinship foster parent shares a residence with the child's parent who has had parental rights to the child terminated.

SECTION 12. Tennessee Code Annotated, Section 37-2-415(a)(17), is amended by adding the following language before the semicolon at the end of the subdivision:

. A foster parent who has served as the physical placement for the child for a period of nine (9) months or more shall be permitted to appear and actively participate in any permanency hearing or dispositional hearing for that child with regard to the best interests of the child

SECTION 13. Tennessee Code Annotated, Section 37-2-416, is amended by deleting subsection (a), substituting the following, and redesignating the subsequent subsection appropriately:

(a) The department shall notify the foster parents, if any, or any prospective adoptive parent or relative providing care for the child in state custody with notice of any review or hearing to be held with respect to the child. The foster parents, if any, of such a child and any prospective adoptive parent or relative providing care for the child shall be provided with notice of the right to be heard in any review or hearing to be held with respect to the child, except that this section shall not be construed to require that any foster parent, prospective adoptive parent, or relative providing care for the child who has served as the physical placement for the child for a period of fewer than nine (9) continuous months be made a party to such a review or hearing solely on the basis of such notice and right to be heard.

(b) Any foster parent who has served as the physical placement for the child for a period of nine (9) or more continuous months shall be permitted to appear for the sole purpose of presenting evidence with regard to the best interests of the child.

SECTION 14. Tennessee Code Annotated, Section 36-1-116(a), is amended by adding the following new subdivision:

(3) The department must accept a home study performed by a licensed child-placing agency or licensed clinical social worker within the previous two (2) years, and shall not require a prospective adoptive parent who has had a valid home study completed by a licensed child-placing agency or licensed clinical social worker to undergo an additional home study by the department in order to adopt a child who is in the custody of the department unless there have been subsequent changes to the circumstances of the household.

SECTION 15. Tennessee Code Annotated, Section 36-1-114, is amended by deleting the section and substituting:

(a) The termination petition may be filed in the county:

(1) Where the petitioners reside;

(2) Where the child resides;

(3) Where, at the time the petition is filed, any respondent resides;

(4) In which is located any licensed child-placing agency or institution operated under the laws of this state having custody or guardianship of the child or to which the child has been surrendered as provided in this part;

(5) Where the child became subject to the care and control of a public or private child-caring or child-placing agency; or

(6) Where the child became subject to partial or complete guardianship or legal custody of the petitioners as provided in this part.

(b) The adoption petition may be filed in any county listed in subdivisions (a)(1)–(6) or a county that is adjacent to a county listed in subdivisions (a)(1)–(6).

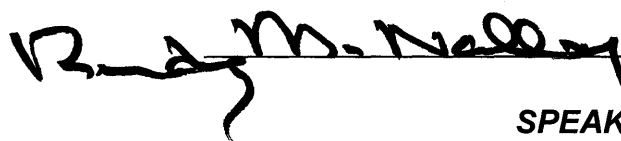
SECTION 16. Tennessee Code Annotated, Section 37-2-403(b), is amended by adding the following new subdivision:

(4) A foster parent or kinship caregiver with whom a child has resided for six (6) months or more is a person who has a significant relationship with the child. Absent evidence to the contrary, the department, foster care advisory review board, or court may presume that continuation of the child's placement with, or adoption by, the child's current caregivers is in the child's best interests.

SECTION 17. Section 8 of this act takes effect July 1, 2024, the public welfare requiring it. All other sections of this act take effect July 1, 2023, the public welfare requiring it.

SENATE BILL NO. 528

PASSED: April 12, 2023

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 28<sup>th</sup> day of April 2023

  
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BILL LEE, GOVERNOR