

STEPPARENT ADOPTION: TERMINATION OF BIOLOGICAL PARENT'S PARENTAL RIGHTS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 458 (passed by the Senate as S-1)

Sponsor: Sen. Tonya Schuitmaker

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 3-14-16

SUMMARY:

The bill would allow a court to terminate a biological parent's parental rights in a stepparent adoption proceeding even if the biological parent had joint legal custody, if certain conditions apply.

Currently, if the parents of a child are divorced, or are unmarried but the father has acknowledged paternity or is a putative father, a stepparent may petition to adopt the child of a spouse if the spouse has legal custody. A court may terminate the other parent's rights under provisions of the Adoption Code if, for a period of two or more years before the stepparent filed the petition to adopt the stepchild, the other parent failed to comply with a child support order or failed or neglected to provide regular and substantial support for the child and regularly and substantially failed or neglected to visit, contact, or communicate with the child [Section 51(6)(a) and (b) of the Adoption Code, MCL 710.51].

A 2014 state Supreme Court case, *In re AJR*, held that a court could only terminate the other parent's rights in a stepparent adoption under Section 51(6)(a) and (b) **if** the parent with physical custody had *sole legal custody*. In other words, if a parent has sole legal custody, the other parent's rights may be terminated if that parent fails to provide support and have contact with the child for at least two years. According to the court, if the biological parents share joint legal custody, the rights of the other parent may not be terminated under Section 51(6)(a) and (b). For the stepparent adoption to go forward, the parent with physical custody would first have to seek modification of the custody arrangement so to be the parent with sole legal custody.

Senate Bill 458 would amend Section 51(6) of the Adoption Code to specify that if *a parent having custody of a child according to a court order* subsequently marries and that parent's spouse petitions to adopt the child, the court may, upon notice and hearing, issue an order terminating the rights of the other parent under Section 51(6)(a) and (b) as described above.

Further, regarding determining compliance with a child support order, the bill would add that a child support order stating that support is \$0.00 or that support is reserved shall be treated in the same manner as if no support order has been entered.

The bill would take effect 90 days after enactment.

FISCAL IMPACT:

The bill would have no fiscal impact on the state or on local units of government.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.