



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Chenwei Zhang

Sub. H.B. 283

132nd General Assembly
(As Reported by H. Criminal Justice)

Reps. Rezabek, Koehler, Reineke, LaTourette, Manning, Celebrezze, Galonski, Lang, Rogers

BILL SUMMARY

Juvenile court consent for certain adoptions

- Prohibits a probate court from exercising jurisdiction over an adoption petition of a child in the temporary custody or protective supervision of a public children services agency or private child placing agency, unless the juvenile court with continuing jurisdiction over the child consents to jurisdiction.
- Requires that a petition for adoption include a statement as to whether the person to be adopted is subject to the temporary custody or protective supervision of a public children services agency or private child placing agency.
- Requires a probate court with jurisdiction over a child's petition for adoption to submit a written request to the juvenile court judge presiding over the child's abuse, neglect, or dependency case for consent to proceed on the adoption petition.
- Establishes procedures for governing how the probate court obtains jurisdiction for purposes of the adoption petition.
- Provides that the juvenile court's consent order is not a final, appealable order.
- Provides that during the period after a juvenile court issues a consent order but before the probate court issues a final adoption decree, the two courts may simultaneously exercise jurisdiction over the child.
- Provides that after a juvenile court issues a consent order, the probate court has exclusive jurisdiction over the preadoption placement of the child.

- Requires the probate court, upon the preadoption placement of the child, to submit a certified copy of the placement order to the juvenile court.
- Provides that upon submission of the placement order, any juvenile court temporary custody or protective supervision order terminates.

Posthumous adoption

- Allows the court to enter a posthumous final decree of adoption, if a child to be adopted dies after the child is placed in the adoptive home.

CONTENT AND OPERATION

Juvenile court consent for certain adoptions

The bill provides that if a child is in the temporary custody or protective supervision of a public children services agency or private child placing agency, a probate court must first request, in writing, written consent from the juvenile court judge presiding over the child's abuse, neglect, or dependency case before conducting the child's adoption proceedings.¹ No probate court can exercise jurisdiction over a petition for adoption until the juvenile court with jurisdiction over the child's abuse, neglect, or dependency case issues an order granting consent to the probate court's jurisdiction.²

The bill requires that a petition for adoption include a statement as to whether the person to be adopted is subject to the temporary custody or protective supervision of a public children services agency or private child placing agency.³ The statement would indicate whether juvenile court consent is necessary before the probate court may proceed on the petition for adoption. This statement is in addition to several other pieces of information that is required under current law.

The bill establishes a procedure for the juvenile court upon receiving a request for consent from the probate court, as follows.

¹ R.C. 3107.041.

² R.C. 3107.047.

³ R.C. 3107.05(A)(11).

Juvenile court proceedings upon receipt of a request for consent

Notice

The bill provides that once a juvenile court receives a request to consent to jurisdiction over adoption proceedings from a probate court, the juvenile court must notify all parties to the case addressed by the request of its receipt.⁴

Hearing

The bill specifies that once a party receives the notice, the party may object to the request for consent and request a hearing on the matter no later than seven days after the juvenile court sends notice.⁵ If the juvenile court receives a request for a hearing, it must schedule the hearing for no later than 30 days after the request is received. The court must give notice of the date, time, and location of the hearing to all parties to the case.⁶

Determination of consent and order

Under the bill, after the hearing (if one is conducted) but no later than 90 days after receiving the request from the probate court, the juvenile court must determine whether to grant consent. If the juvenile court grants the consent, it must issue an order specifying as much and submit a copy of the order to the probate court.⁷

The bill requires the juvenile court's order to include a requirement that any temporary custody or protective supervision order issued by the juvenile court will remain in effect until the probate court approves the preadoption placement of the child.⁸

The bill also provides that the juvenile court's order is not a final, appealable order.⁹

⁴ R.C. 3107.042.

⁵ R.C. 3107.043.

⁶ R.C. 3107.044(A).

⁷ R.C. 3107.044(B).

⁸ R.C. 3107.045.

⁹ R.C. 3107.046.

Jurisdiction

Simultaneous jurisdiction

The bill specifies that after a juvenile court issues an order granting consent to jurisdiction to a probate court, but before the probate court issues a final decree of adoption, the juvenile court may continue to exercise jurisdiction over the child in conjunction with the probate court.¹⁰

Probate court jurisdiction on juvenile court consent

The bill provides that once the juvenile court issues an order granting consent to jurisdiction, the probate court will have exclusive jurisdiction over the preadoption placement of the child subject to the order. Once the probate court approves the preadoption placement of the child, it must submit a certified copy of the placement order to the juvenile court. Upon submission of the placement order, any temporary custody or protective supervision order regarding the child will terminate.¹¹

Background

In the case of *State ex. Rel. Allen County Children Services Bd. v. Mercer County Common Pleas Ct.*, 2016-Ohio-7382, the Ohio Supreme Court held that a juvenile court's continuing jurisdiction over a child in temporary custody (R.C. 2151.353(F)(1)) does not divest a probate court of exclusive, original jurisdiction over adoption proceedings regarding the child. In that case, the court stated: "Had the legislature intended a temporary dispositional order to be a barrier to adoption . . . it could have required the consent of . . . the juvenile court, but it did not."

Posthumous adoption

The bill allows the probate court to enter a posthumous final decree of adoption if a child to be adopted dies after the child is placed in the adoptive home and the adoptive parent makes a request for the decree. However, the adoptive parent is barred from making such a request if the parent is convicted of a crime that resulted in the adoptive child's death.¹²

¹⁰ R.C. 3107.048.

¹¹ R.C. 3107.049.

¹² R.C. 3107.131.



HISTORY

ACTION

DATE

Introduced
Reported, H. Criminal Justice

06-20-17
11-29-17

H0283-RH-132.docx/ar

