

As Reported by the House Judiciary and Ethics Committee

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Am. H. B. No. 212

Representative Grossman

**Cosponsors: Representatives Murray, Young, Stinziano, Blair, Stebelton,
Hayes, Bubp, Letson, Szollosi, Mecklenborg, Huffman, Slaby, McKenney**

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A B I L L

To amend section 5103.16 of the Revised Code to 1
extend to legal custodians the exemption from 2
certain adoptive placement requirements. 3

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

Section 1. That section 5103.16 of the Revised Code be 4
amended as follows: 5

Sec. 5103.16. (A) Except as otherwise provided in this 6
section, no child shall be placed or accepted for placement under 7
any written or oral agreement or understanding that transfers or 8
surrenders the legal rights, powers, or duties of the legal 9
parent, parents, or guardian of the child into the temporary or 10
permanent custody of any association or institution that is not 11
certified by the department of job and family services under 12
section 5103.03 of the Revised Code, without the written consent 13
of the office in the department that oversees the interstate 14
compact for placement of children established under section 15
5103.20 of the Revised Code or the interstate compact on the 16
placement of children established under section 5103.23 of the 17
Revised Code, as applicable, or by a commitment of a juvenile 18

court, or by a commitment of a probate court as provided in this 19
section. A child may be placed temporarily without written consent 20
or court commitment with persons related by blood or marriage or 21
in a legally licensed boarding home. 22

(B)(1) Associations and institutions certified under section 23
5103.03 of the Revised Code for the purpose of placing children in 24
free foster homes or for legal adoption shall keep a record of the 25
temporary and permanent surrenders of children. This record shall 26
be available for separate statistics, which shall include a copy 27
of an official birth record and all information concerning the 28
social, mental, and medical history of the children that will aid 29
in an intelligent disposition of the children in case that becomes 30
necessary because the parents or guardians fail or are unable to 31
reassume custody. 32

(2) No child placed on a temporary surrender with an 33
association or institution shall be placed permanently in a foster 34
home or for legal adoption. All surrendered children who are 35
placed permanently in foster homes or for adoption shall have been 36
permanently surrendered, and a copy of the permanent surrender 37
shall be a part of the separate record kept by the association or 38
institution. 39

(C) Any agreement or understanding to transfer or surrender 40
the legal rights, powers, or duties of the legal parent or parents 41
and place a child with a person seeking to adopt the child under 42
this section shall be construed to contain a promise by the person 43
seeking to adopt the child to pay the expenses listed in divisions 44
(C)(1), (2), and (4) of section 3107.055 of the Revised Code and, 45
if the person seeking to adopt the child refuses to accept 46
placement of the child, to pay the temporary costs of routine 47
maintenance and medical care for the child in a hospital, foster 48
home, or other appropriate place for up to thirty days or until 49
other custody is established for the child, as provided by law, 50

whichever is less. 51

(D) No child shall be placed or received for adoption or with 52
intent to adopt unless placement is made by a public children 53
services agency, an institution or association that is certified 54
by the department of job and family services under section 5103.03 55
of the Revised Code to place children for adoption, or custodians 56
in another state or foreign country, or unless all of the 57
following criteria are met: 58

(1) Prior to the placement and receiving of the child, the 59
parent or parents of the child personally have applied to, and 60
appeared before, the probate court of the county in which the 61
parent or parents reside, or in which the person seeking to adopt 62
the child resides, for approval of the proposed placement 63
specified in the application and have signed and filed with the 64
court a written statement showing that the parent or parents are 65
aware of their right to contest the decree of adoption subject to 66
the limitations of section 3107.16 of the Revised Code; 67

(2) The court ordered an independent home study of the 68
proposed placement to be conducted as provided in section 3107.031 69
of the Revised Code, and after completion of the home study, the 70
court determined that the proposed placement is in the best 71
interest of the child; 72

(3) The court has approved of record the proposed placement. 73

In determining whether a custodian has authority to place 74
children for adoption under the laws of a foreign country, the 75
probate court shall determine whether the child has been released 76
for adoption pursuant to the laws of the country in which the 77
child resides, and if the release is in a form that satisfies the 78
requirements of the immigration and naturalization service of the 79
United States department of justice for purposes of immigration to 80
this country pursuant to section 101(b)(1)(F) of the "Immigration 81

and Nationality Act," 75 Stat. 650 (1961), 8 U.S.C. 1101 82
(b)(1)(F), as amended or reenacted. 83

If the parent or parents of the child are deceased or have 84
abandoned the child, as determined under division (A) of section 85
3107.07 of the Revised Code, the application for approval of the 86
proposed adoptive placement may be brought by the relative seeking 87
to adopt the child, or by the department, board, or organization 88
not otherwise having legal authority to place the orphaned or 89
abandoned child for adoption, but having legal custody of the 90
orphaned or abandoned child, in the probate court of the county in 91
which the child is a resident, or in which the department, board, 92
or organization is located, or where the person or persons with 93
whom the child is to be placed reside. Unless the parent, parents, 94
or guardian of the person of the child personally have appeared 95
before the court and applied for approval of the placement, notice 96
of the hearing on the application shall be served on the parent, 97
parents, or guardian. 98

The consent to placement, surrender, or adoption executed by 99
a minor parent before a judge of the probate court or an 100
authorized deputy or referee of the court, whether executed within 101
or outside the confines of the court, is as valid as though 102
executed by an adult. A consent given as above before an employee 103
of a children services agency that is licensed as provided by law, 104
is equally effective, if the consent also is accompanied by an 105
affidavit executed by the witnessing employee or employees to the 106
effect that the legal rights of the parents have been fully 107
explained to the parents, prior to the execution of any consent, 108
and that the action was done after the birth of the child. 109

If the court approves a placement, the prospective adoptive 110
parent with whom the child is placed has care, custody, and 111
control of the child pending further order of the court. 112

(E) (1) This section does not apply to an adoption by a 113

stepparent, a grandparent, <u>a legal custodian</u> , or a guardian.	114
<u>(2) As used in division (E)(1) of this section:</u>	115
<u>(a) "Legal custodian" means a person who has been granted the legal custody of a child by a court of competent jurisdiction.</u>	116
<u>(b) "Legal custody" has the same meaning as in section 2151.011 of the Revised Code.</u>	118
Section 2. That existing section 5103.16 of the Revised Code is hereby repealed.	120
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