

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**H. B. No. 46**

**Representative Blessing**

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**A B I L L**

To amend section 5103.16 of the Revised Code to 1  
extend to a grandparent's spouse the exemption 2  
from 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  
abandoned the child, as determined under division (A) of section  
3107.07 of the Revised Code, the application for approval of the  
proposed adoptive placement may be brought by the relative seeking  
to adopt the child, or by the department, board, or organization  
not otherwise having legal authority to place the orphaned or  
abandoned child for adoption, but having legal custody of the  
orphaned or abandoned child, in the probate court of the county in  
which the child is a resident, or in which the department, board,  
or organization is located, or where the person or persons with  
whom the child is to be placed reside. Unless the parent, parents,  
or guardian of the person of the child personally have appeared  
before the court and applied for approval of the placement, notice  
of the hearing on the application shall be served on the parent,  
parents, or guardian.

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

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

(E) This section does not apply to an adoption by a  
stepparent, a grandparent, a grandparent's husband or wife, or a  
guardian.

**Section 2.** That existing section 5103.16 of the Revised Code 116  
is hereby repealed. 117