

As Introduced

**130th General Assembly
Regular Session
2013-2014**

S. B. No. 171

Senators Turner, Tavares

—

A B I L L

To amend section 3107.07 and to enact section 1
3109.044 of the Revised Code to permit a victim of 2
rape, sexual battery, or unlawful sexual conduct, 3
or a parent of a minor who was the victim of a 4
felony violation of unlawful sexual conduct to 5
file a complaint to terminate specified parental 6
rights of the defendant with regard to a minor 7
conceived as a result of the offense, to require 8
the court to terminate the parental rights named 9
in the complaint if the court determines that the 10
defendant was convicted of or pleaded guilty to 11
the offense or determines beyond a reasonable 12
doubt that the defendant committed the offense, 13
and to prohibit a court from granting in any 14
subsequent civil action the defendant any of the 15
terminated parental rights. 16

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

Section 1. That section 3107.07 be amended and section 17
3109.044 of the Revised Code be enacted to read as follows: 18

Sec. 3107.07. Consent to adoption is not required of any of 19
the following: 20

(A) A parent of a minor, when it is alleged in the adoption petition and the court, after proper service of notice and hearing, finds by clear and convincing evidence that the parent has failed without justifiable cause to provide more than de minimis contact with the minor or to provide for the maintenance and support of the minor as required by law or judicial decree for a period of at least one year immediately preceding either the filing of the adoption petition or the placement of the minor in the home of the petitioner.

(B) The putative father of a minor if either of the following applies:

(1) The putative father fails to register as the minor's putative father with the putative father registry established under section 3107.062 of the Revised Code not later than thirty days after the minor's birth;

(2) The court finds, after proper service of notice and hearing, that any of the following are the case:

(a) The putative father is not the father of the minor;

(b) The putative father has willfully abandoned or failed to care for and support the minor;

(c) The putative father has willfully abandoned the mother of the minor during her pregnancy and up to the time of her surrender of the minor, or the minor's placement in the home of the petitioner, whichever occurs first.

(C) Except as provided in section 3107.071 of the Revised Code, a parent who has entered into a voluntary permanent custody surrender agreement under division (B) of section 5103.15 of the Revised Code;

(D) A parent whose parental rights have been terminated by order of a juvenile court under Chapter 2151. of the Revised Code;

(E) A parent who is married to the petitioner and supports the adoption; 51
52

(F) The father, or putative father, of a minor if the minor is conceived as the result of the commission of rape by the father or putative father and the father or putative father is convicted of or pleads guilty to the commission of that offense. As used in this division, "rape" means a violation of section 2907.02 of the Revised Code or a similar law of another state. 53
54
55
56
57
58

(G) A legal guardian or guardian ad litem of a parent judicially declared incompetent in a separate court proceeding who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably; 59
60
61
62
63
64

(H) Any legal guardian or lawful custodian of the person to be adopted, other than a parent, who has failed to respond in writing to a request for consent, for a period of thirty days, or who, after examination of the written reasons for withholding consent, is found by the court to be withholding consent unreasonably; 65
66
67
68
69
70

(I) The spouse of the person to be adopted, if the failure of the spouse to consent to the adoption is found by the court to be by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances that make it impossible or unreasonably difficult to obtain the consent or refusal of the spouse; 71
72
73
74
75
76

(J) Any parent, legal guardian, or other lawful custodian in a foreign country, if the person to be adopted has been released for adoption pursuant to the laws of the country in which the person resides and the release of such person is in a form that satisfies the requirements of the immigration and naturalization 77
78
79
80
81

service of the United States department of justice for purposes of 82
immigration to the United States pursuant to section 101(b)(1)(F) 83
of the "Immigration and Nationality Act," 75 Stat. 650 (1961), 8
U.S.C. 1101(b)(1)(F), as amended or reenacted. 85

(K) Except as provided in divisions (G) and (H) of this 86
section, a juvenile court, agency, or person given notice of the 87
petition pursuant to division (A)(1) of section 3107.11 of the 88
Revised Code that fails to file an objection to the petition 89
within fourteen days after proof is filed pursuant to division (B) 90
of that section that the notice was given; 91

(L) Any guardian, custodian, or other party who has temporary 92
custody of the child; 93

(M) A parent whose parental rights with regard to adoption 94
have been terminated by court order under section 3109.044 of the 95
Revised Code. 96

Sec. 3109.044. (A) As used in this section: 97

(1) "Court" means a juvenile or other court that has 98
jurisdiction in a case respecting the allocation of parental 99
rights for a minor. 100

(2) "Minor" means a person under eighteen years of age. 101

(B) The parent of a minor who was conceived as the result of 102
the commission of an offense in violation of section 2907.02 or 103
2907.03 of the Revised Code may file a complaint with a court to 104
terminate any of the following parental rights with respect to 105
that minor of a person who has been convicted of or pleaded guilty 106
to the offense or who has been determined pursuant to division (E) 107
of this section to have committed the offense: 108

(1) Custody; 109

(2) Parenting time rights and visitation rights; 110

(3) The necessity, authority, or right to consent to the 111
minor's adoption. 112

(C) A parent of a minor child who conceives a child as the 113
result of the commission of an offense that is a felony violation 114
of section 2907.04 of the Revised Code may file a complaint with a 115
court to terminate any of the following parental rights with 116
respect to the child born to the minor child of a person who has 117
been convicted of or pleaded guilty to the offense or who has been 118
determined pursuant to division (E) of this section to have 119
committed the offense: 120

(1) Custody; 121

(2) Parenting time rights and visitation rights; 122

(3) The necessity, authority, or right to consent to the 123
adoption of the minor child's child. 124

(D) A person who is the parent of a minor child who was 125
conceived as a result of the commission of an offense that is a 126
misdemeanor violation of section 2907.04 of the Revised Code may 127
file on or after the parent's eighteenth birthday a complaint with 128
a court to terminate any of the following parental rights with 129
respect to that minor child of a person who has been convicted of 130
or pleaded guilty to the offense or who has been determined 131
pursuant to division (E) of this section to have committed the 132
offense: 133

(1) Custody; 134

(2) Parenting time rights or visitation rights; 135

(3) The necessity, authority, or right to consent to the 136
minor child's adoption. 137

(E) If a parent of a minor child files a complaint pursuant 138
to division (B) or (D) of this section that alleges that the minor 139
child was conceived as the result of the defendant's violation of 140

section 2907.02 or 2907.03 of the Revised Code or misdemeanor 141
violation of section 2907.04 of the Revised Code, or if a parent 142
of a minor child files a complaint pursuant to division (C) of 143
this section that alleges that the minor child of the parent's 144
minor child was conceived as the result of the defendant's felony 145
violation of section 2907.04 of the Revised Code, the court shall 146
determine if the defendant was convicted of or pleaded guilty to 147
the violation of section 2907.02, 2907.03, or 2907.04 of the 148
Revised Code that resulted in the child's conception. 149

If the defendant has not been convicted of or pleaded guilty 150
to the violation of section 2907.02, 2907.03, or 2907.04 of the 151
Revised Code that resulted in the child's conception, the court 152
shall hold a hearing to determine if the defendant committed the 153
violation that resulted in the child's conception. The plaintiff 154
shall have the burden to prove beyond a reasonable doubt that the 155
defendant committed the violation. 156

The court, upon making a determination that the defendant was 157
convicted of, pleaded guilty to, or committed the violation of 158
section 2907.02, 2907.03, or 2907.04 of the Revised Code that 159
resulted in the conception of the minor named in the complaint, 160
shall order the termination of the defendant's parental rights 161
that are named in the complaint and that exist at the time of, or 162
may exist subsequent to, the court order. No court shall grant to 163
the defendant any parental rights that are terminated pursuant to 164
this section. 165

Section 2. That existing section 3107.07 of the Revised Code 166
is hereby repealed. 167