

1 HB543
2 176073-1
3 By Representative Hall
4 RFD: Judiciary
5 First Read: 13-APR-16

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8 SYNOPSIS: Under existing law, a final decree of
9 adoption may not be collaterally attacked, except
10 in cases of fraud or where the adoptee has been
11 kidnapped, after one year from the entry of the
12 final decree and all appeals, if any.

13 This bill would specify that in cases of
14 fraud, the final decree of adoption may be attacked
15 and set aside at any time before the minor child
16 reaches the age of 18 years.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to adoption; to amend Section 26-10A-25 of
23 the Code of Alabama 1975, to specify that in cases of fraud, a
24 final decree of adoption may be collaterally challenged and
25 the adoption set aside at any time before the child reaches
26 the age of 18 years.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 26-10A-25 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§26-10A-25.

4 "(a) When the pre-placement investigation has been
5 completed and approved or the investigation has been waived
6 for good cause shown, the petition for adoption shall be set
7 for a dispositional hearing as soon as possible or no later
8 than 90 days after the filing of the petition. When there has
9 not been a pre-placement investigation or the investigation
10 has not been waived for good cause shown or when the adoptee
11 is a special needs child, the petition for adoption shall be
12 set for a dispositional hearing as soon as possible or no
13 later than 120 days after the filing of the petition. Upon
14 good cause shown, the court may extend the time for the
15 dispositional hearing and entry of the final decree.

16 "(b) At the dispositional hearing, the court shall
17 grant a final decree of adoption if it finds on clear and
18 convincing evidence that:

19 "(1) The adoptee has been in the actual physical
20 custody of the petitioners for a period of 60 days, unless for
21 good cause shown, this requirement is waived by the court;

22 "(2) All necessary consents, relinquishments,
23 terminations, or waivers have been obtained and, if
24 appropriate, have been filed with the court;

25 "(3) Service of the notice of pendency of the
26 adoption proceeding has been made or dispensed with as to all
27 persons entitled to receive notice under Section 26-10A-17;

1 "(4) All contests brought under Section 26-10A-24
2 have been resolved in favor of the petitioner;

3 "(5) That each petitioner is a suitable adopting
4 parent and desires to establish a parent and child
5 relationship between himself or herself and the adoptee;

6 (6) That the best interests of the adoptee are
7 served by the adoption; and

8 "(7) All other requirements of this chapter have
9 been met.

10 "(c) The court shall enter its finding in a written
11 decree which shall also include the new name of the adoptee,
12 and shall not include any other name by which the adoptee has
13 been known or the names of the natural or presumed parents.
14 The final decree shall further order that from the date of the
15 decree, the adoptee shall be the child of the petitioners, and
16 that the adoptee shall be accorded the status set forth in
17 Section 26-10A-29.

18 "(d) A final decree of adoption may not be
19 collaterally attacked, except in cases of fraud or where the
20 adoptee has been kidnapped, after the expiration of one year
21 from the entry of the final decree and after all appeals, if
22 any. In cases of fraud, the final decree of adoption may be
23 attacked and set aside at any time before the child reaches
24 the age of 18 years."

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

