SENATE BILL 78
By Stanley

HOUSE BILL 605

By DeBerry J

AN ACT to amend Tennessee Code Annotated, Title 36 and Title 49, relative to the placement of children for adoption.

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

SECTION 1. The public policy of this state is to favor marriage, as defined by the constitution and laws of this state, over unmarried sexual cohabitation. It is also the public policy of this state to place children into adoptive families that provide the most stable familial relationships for that child and will foster an appreciation for the policies of this state that favor marriage over unmarried cohabitation. The general assembly specifically finds that it is not in a child's best interest to be adopted by a person who is cohabitating in a sexual relationship that is not a legally valid and binding marriage under the constitution and laws of this state.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 1, Part 1, is amended by adding the following new section thereto:

§ 36-1-143.

(a) As used in this section, unless the context otherwise requires:

(1) "Cohabitating" means residing with another person and being involved in a sexual relationship with that person; and

(2) "Minor" means an individual under the age of eighteen (18) years of age.

(b) Notwithstanding any other provision of law to the contrary, a minor may not be adopted if the individual seeking to adopt is cohabiting outside of a marriage that is valid under the constitution and laws of this state.

(c) The prohibition of this section applies equally to cohabiting opposite-sex and same-sex individuals.

SECTION 3. Tennessee Code Annotated, Section 36-1-115(a), is amended by adding the following language at the end of the subsection:

Provided, however, no person involved in a cohabitating sexual relationship outside of a marriage that is valid under the constitution and laws of this state shall be eligible to adopt a minor.

SECTION 4. The department of human services, or the successor agency or agencies responsible for adoption, shall promulgate necessary rules and regulations to effectuate the purpose of this act. Such rules shall be promulgated in accordance with the uniform administrative procedures act, compiled in title 4, chapter 5, part 2.

SECTION 5. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall effect July 1, 2009, the public welfare requiring it and shall apply to any adoption petition filed after the effective date of this act.