

Impact of Ohio House Bill 5 on Adoption Legal Practice in Ohio

House Bill 5 (2025) – also known as Ohio's *Adoption Modernization Act* – is a comprehensive update to the state's adoption laws, effective March 20, 2025 hannahslegalhelp.com. It introduces significant changes to adoption **forms, procedures, and requirements**, directly affecting how attorneys assist prospective adoptive parents. Below is a detailed breakdown of HB 5's key impacts on legal practice, including changes in documentation, filing processes, coordination with agencies/courts, and compliance obligations for Ohio adoption cases.

Ohio's Adoption Modernization Act (HB 5) streamlines procedures and updates requirements for adoptive families. Attorneys must adapt to new timelines, documentation standards, and coordination duties under the revised law ohiohouse.gov/ohiohouse.gov.

Revised Court Procedures and Timelines

- **Six-Month Placement Requirement:** HB 5 continues to require that a child live in the adoptive home at least *six months* before an adoption can be finalized. However, it clarifies that this **waiting period is credited by any time the child already spent in the home** for certain adopting relatives or foster caregivers probate.franklincountyohio.gov/ohiohouse.gov. For example, a foster parent, kinship caregiver, or grandparent who has cared for the child can count that time toward the 6-month period, potentially speeding up finalization. Notably, HB 5 **removed the former one-year cap** on finalizing adoptions, so courts are no longer forced to conclude an adoption within one year of placement legislature.ohio.gov/legislature.ohio.gov (allowing flexibility if delays occur).

- Scheduling of Hearings:** Under the new law, once an adoption petition is filed, the court must set the hearing **“not earlier than” 30 days after the child’s placement in the petitioner’s home** legislature.ohio.gov. (This replaces prior language of “not more than” 30 days, ensuring at least a 30-day interval post-placement before a hearing can occur.) In practice, attorneys should anticipate that the earliest an adoption hearing may be held is 30 days after placement, which aligns with the minimum residence period for the child (formerly 30 days) under prior law. This change helps ensure sufficient time for required notices and evaluations before the hearing.
- Probate Jurisdiction:** HB 5 explicitly reaffirms that, except as otherwise provided by law, **probate courts have exclusive jurisdiction over adoption petitions** legislature.ohio.gov. This was generally understood before, but the statute now makes it clear. For practitioners, this means all adoption proceedings (with limited exceptions like certain juvenile-court matters) must be filed and handled in probate court.
- Recordkeeping Modernization:** The Act permits adoption hearings to be recorded and preserved **electronically** (digital recording) rather than only in bound record books legislature.ohio.gov. This administrative update may not directly affect how attorneys present a case, but it indicates courts are modernizing how records are kept. Attorneys may request copies of electronic records as needed.
- Final Decrees & Vacating Adoptions:** A final decree or interlocutory order of adoption can still be issued at the conclusion of the hearing once all consents are obtained or excused and the adoption is in the child’s best interest legislature.ohio.gov. HB 5 removes the court’s ability to consider an adoptive petitioner’s age as a factor (if the adopter is otherwise legally eligible) in determining best interest legislature.ohio.gov (discussed more under “Best Interest” below). Additionally, **courts are now explicitly barred from vacating an adoption decree more than 6 months after issuance** (for reasons like fraud or lack of notice) except in one situation: if **clear and convincing evidence** shows the child was a victim of human trafficking legislature.ohio.gov legislature.ohio.gov. In that trafficking scenario, the court may reconsider and vacate the adoption even beyond six months,

without a criminal conviction being required legislature.ohio.gov. Attorneys should reassure adoptive parents that adoptions are generally final after six months, but also be aware of this narrow trafficking-related exception.

- **Termination of Child Support Orders:** Importantly, upon issuance of a final adoption decree, **the court must now notify the local Child Support Enforcement Agency (CSEA)** administering any existing support order for the child legislature.ohio.gov. Upon that notice, the agency must terminate the support order legislature.ohio.gov. In practice, adoption attorneys should ensure that the final decree or accompanying documents prompt the court to send this notice. This spares adoptive families from lingering child support obligations of the former parent and is a new compliance step for courts.

Notice and Birth Parent Objection Changes

HB 5 overhauls the **notice requirements** to biological parents (and other interested parties), aiming to enhance due process and clarity:

- **Longer Notice Period:** The notice of the filing of an adoption petition must now be given **at least 30 days before the adoption hearing** legislature.ohio.gov. (Previously only 20 days' notice was required.) Attorneys must adjust their timelines – ensure that the hearing date is set far enough out to accommodate a full 30-day notice. This extended period gives birth parents more time to respond or obtain counsel.
- **Expanded Notice Recipients:** If a child is in the **permanent custody of an agency**, the court must notify that agency of the adoption petition and the hearing details legislature.ohio.gov. Similarly, any **legal custodian** or guardian of the child is entitled to notice legislature.ohio.gov. (HB 5 clarifies that notice to a “custodian” means a **legal** custodian, ensuring foster agencies or others with temporary custody are appropriately notified legislature.ohio.gov.) Attorneys for adoptive parents should identify if an agency or custodian has legal custody and ensure the court sends them notice as required. Additionally, although not explicitly a new provision in the cited text, practitioners should also ensure that any guardian ad

litem (GAL) previously appointed for the child is made aware of the adoption proceeding – HB 5’s legislative history indicates courts are to notify the child’s GAL as well ohiohouse.gov (to ensure the GAL can participate or at least is informed).

- **Updated Notice Content (Parental Rights):** The statutory language of the notice to birth parents has been revised for clarity. The notice must clearly state that **a final decree of adoption will permanently terminate all the parent’s rights and responsibilities, including contact with the child, and will sever the legal relationship between the child and the parent (and the parent’s relatives)** legislature.ohio.gov. This language (now required) emphasizes that the child will become “a stranger” to the former parent and relatives for all legal purposes legislature.ohio.gov. Attorneys should use the new **form notice** language provided in R.C. 3107.11 to ensure compliance legislature.ohio.gov. The new wording is more explicit than prior law legislature.ohio.gov, so outdated form notices should be replaced to avoid any challenge.
- **“Right to Contest” – Objection Deadlines:** HB 5 details two different objection deadlines in the notice, based on the child’s age at the time the petition is filed, to inform birth parents how to contest an adoption:

- If the child is **less than one year old**, the notice now states that the parent must **(1) file a written objection within 14 days** from service of the notice **and (2) appear at the hearing** to contest legislature.ohio.gov.
- If the child is **one year old or older**, the parent must **(1) file a written objection within 28 days** of service **and** appear at the hearing legislature.ohio.gov. The court *may* extend the 28-day objection deadline for good cause shown legislature.ohio.gov (e.g. if the parent needs more time to obtain counsel).
- The notice warns that **failure to timely file an objection and appear at the hearing allows the adoption to proceed by default** legislature.ohio.gov. Under prior law, the notice simply gave a 14-day deadline for objections in all cases legislature.ohio.gov. Now the process is more nuanced, so attorneys should double-check that the correct deadline (14 vs. 28 days) is stated in the notice

based on the child's age. This change impacts how long an adoption case might remain open before finalization if an older child's parent is involved, since you must wait 28 days for possible objections.

- **Right to Counsel for Birth Parents:** A major addition is that the notice must inform the birth parent of their **right to be represented by an attorney**, and if they are indigent and request an attorney, the court will appoint one at no cost (per Ohio's public defender provisions) legislature.ohio.gov. The exact wording about the right to an attorney is now mandated in the notice form legislature.ohio.gov. For adoption attorneys, this means you should be prepared for the possibility that a birth parent may obtain counsel (or have one appointed) after receiving the notice. Notably, HB 5 also provides that **if a birth parent (or putative father) communicates a request for counsel or an attorney files a notice of appearance on their behalf within the objection period, the court should treat that as grounds to extend the time for filing a written objection** legislature.ohio.gov. In practice, if you represent a prospective adoptive parent and the birth parent's attorney enters the case, expect that the court will likely grant additional time for that parent to formally object. This new rule ensures a parent's right to contest isn't cut off while they're seeking counsel. Attorneys representing birth parents should promptly file a notice of appearance or written request for counsel within the initial 14/28-day window to secure an extension if needed legislature.ohio.gov.
- **Proof of Service Filing:** The law now *explicitly* requires that **proof of service of the notice of the adoption petition** be filed with the court before the petition is heard legislature.ohio.gov. Previously, the statute required proof of "giving notice" to be filed, which was somewhat vague. HB 5 clarifies this as proof of *service*. For attorneys, this means you must ensure an affidavit or certified mail receipt (or other proof of service) is filed in the probate court to document that each required party (birth parent, putative father, legal custodian, agency, etc.) was properly served the notice. Failing to have proof of service on file can delay the hearing or even jeopardize the decree, so this is a critical compliance point.

Always check that the court's file contains proof of service for all notices in advance of the adoption hearing.

Parental Consent and Surrender Provisions

HB 5 refines Ohio law on **when parental consent is required or can be dispensed with**, and it streamlines voluntary surrender procedures:

- **Grounds When Consent Isn't Required:** Revised Code 3107.07, as amended by HB 5, enumerates scenarios where a birth parent's consent to adoption is not necessary. Many of these grounds existed before, but attorneys should note any nuanced changes:
 - If the parent has failed without justifiable cause to have more than de minimis contact with the child **or** failed to provide meaningful support for **at least one year immediately prior to the adoption filing**, their consent is not required probate.franklincountyohio.gov. (This is the familiar "abandonment for one year" rule. HB 5 didn't change the one-year period but reaffirmed that *failure to support* **or** *only trivial contact* in that year can suffice to waive consent, as long as the lack of contact/support was not justifiable.)
 - If the person to be adopted has a **putative father** (an unmarried alleged father) who *failed to timely register* with Ohio's Putative Father Registry, that putative father's consent is unnecessary probate.franklincountyohio.gov. Even if he did register, the court can find his consent not required if, after proper notice, the court determines **he is not actually the father, or he too has failed to contact or support the child**, or that **he willfully failed to support the mother during her pregnancy and up to the child's surrender or placement** probate.franklincountyohio.gov probate.franklincountyohio.gov. (*The bolded ground is an update:* HB 5 explicitly added a putative father's failure to support the birth mother during pregnancy as an independent reason to dispense with his consent probate.franklincountyohio.gov.) Attorneys for adoptive parents should gather evidence of lack of support or contact to invoke these provisions. For putative fathers' counsel,

be aware that registering with the father registry on time is critical to preserve rights.

- If a parent **properly executed a voluntary permanent surrender of the child to an agency** (discussed more below), no further consent to the adoption is required from that parent probate.franklincountyohio.gov. HB 5 codifies that once a parent signs a surrender agreement that's approved by a juvenile court, they don't also need to consent again in the probate adoption case legislature.ohio.gov.
- If the parent's **parental rights have already been terminated by a juvenile court or another court**, no consent is needed probate.franklincountyohio.gov. (This covers children coming from foster care where rights were terminated in juvenile court – the agency with permanent custody consents in lieu of the parent.)
- If an **agency has permanent custody** of the child and the agency is withholding consent to the adoption *unreasonably*, the court can decide that the agency's consent is not required probate.franklincountyohio.gov. This gives courts power to override an agency that might arbitrarily object to a placement.
- Additional provisions (not fully shown in the excerpt) include situations like: a parent convicted of certain crimes (for example, offenses resulting in the death of the other parent or the child, or rape leading to the child's conception) need not consent probate.franklincountyohio.gov. In essence, HB 5 continues Ohio's approach that **parents who have abandoned, failed to support, or endangered their child (or the other parent) can have their consent excused**, allowing the adoption to proceed in the child's best interest probate.franklincountyohio.gov probate.franklincountyohio.gov.

- **Voluntary Surrender of Parental Rights (Streamlined):** The Act makes it easier for birth parents to voluntarily surrender a child to an agency to facilitate adoption. Specifically, if a child is in the **temporary custody of a public children services agency (PCSA) or private agency (PCPA)** (typically as a result of abuse/neglect proceedings), the parents (or guardian or others with custody) may, **with juvenile court approval**, enter an agreement to surrender the child into the *permanent* custody

of that agency legislature.ohio.gov. This is effectively an alternative to a contested termination of parental rights – it allows a willing parent to legally free the child for adoption. Under prior law, voluntary permanent surrenders were possible but there was ambiguity when the child was already in temporary custody; HB 5 clarifies this path. The agency must file an original or amended case plan with the court at the time it seeks approval of the surrender agreement legislature.ohio.gov, detailing the permanency plan for the child (this is a new documentation requirement). Once the juvenile court approves the surrender, HB 5 **repeals the requirement for that parent to later consent in the probate adoption case** legislature.ohio.gov – the surrender itself is sufficient. For attorneys: if you represent birth parents, this offers a more straightforward way for your clients to relinquish rights voluntarily and have a say in the adoption plan (often allowing some choice of adoptive family through the agency). If you represent an adoptive family receiving a child via an agency, be aware that the birth parent’s surrender (documented by the agency) means you won’t need to obtain a separate consent form from that parent during the adoption filing. Ensure the agency provides a certified copy of the juvenile court’s permanent surrender order to file with the adoption petition as proof of consent not needed. This new process may shorten the timeline to adoption for children in foster care when parents are willing to surrender, since it avoids lengthy termination trials.

- **Adoptee’s Self-Consent to Adoption:** The law historically has allowed a minor to consent to their own adoption in certain cases (for example, if age 12 or older in Ohio, the child’s consent is typically required by the court). HB 5 makes a small tweak: it permits a person to consent to their own adoption in the presence of the court “*whether a minor or an adult.*” legislature.ohio.gov In other words, an adoptee of any age can directly consent to the adoption at the hearing. This is particularly relevant in **adult adoptions** or older teenage adoptions. For minors under 18, the law already required those over age 12 to consent (unless the court dispenses with the minor’s consent for good cause), but now even a minor under 12 could technically “self-consent” if they have capacity and the court allows it. As a practical matter, always check if the

adoptive's consent is needed (age 12+ presumed necessary unless waived). If you represent the petitioner in an adult adoption, the adult being adopted should be present or provide written consent in court – HB 5 clarifies the court can accept that consent on the spot for any age.

- **Spousal Consent in Step-Parent Adoptions:** Another subtle change: when a **married person seeks to adopt without their spouse joining** (the classic case is a step-parent adopting their spouse's child), the non-petitioning spouse's involvement is addressed. HB 5 specifies that if one spouse is the biological/adoptive parent of the child (step-parent adoption scenario), the other spouse must **consent to the adoption in writing** (rather than merely "not objecting" as under prior language) legislature.ohio.gov. If that spouse cannot consent due to prolonged absence, incapacity, or the like, the court can waive the consent requirement upon finding it's impossible or unreasonable to obtain legislature.ohio.gov. For attorneys handling step-parent adoptions: ensure the custodial parent (who is married to your step-parent client) signs a **spousal consent** to the adoption, or document why such consent can't be obtained. This change basically formalizes what most courts already expected (the custodial parent's cooperation), but now it's in statute.

Exemptions for Relative Adoptions (Use of Agencies and Assessors)

To lighten the burden on intrafamily adoptions, HB 5 expands exemptions for certain relatives so that some formal requirements (like using an agency or home study assessor) are not needed:

- **No Agency/Attorney Placement Needed for Certain Relatives:** Ohio law generally requires that an adoption of a minor **must be arranged by a licensed agency or attorney** (R.C. 3107.011) unless an exemption applies. HB 5 broadens the exemption. Now, adoptions by any of the following do **not** require use of an agency or attorney to arrange the placement:

- A **step-parent** of the child (this was already exempt under prior law),
- A **grandparent** of the child,
- An **adult sibling** of the child,
- A **legal custodian** of the child, or
- A **guardian** of the child legislature.ohio.gov.

In addition, if such an adoption is a **joint** adoption by a married couple, the spouse of the grandparent/adult sibling/guardian/etc. is included in the exemption legislature.ohio.gov. (HB 5 cleaned up language by removing the old phrasing “a grandparent’s husband or wife” and instead just including the spouse by definition legislature.ohio.gov.) This change means that, for example, a grandmother adopting her grandchild does not need to go through an adoption agency or intermediary – she can proceed directly with an attorney (or even pro se, though counsel is recommended) since the placement is within the family. For attorneys, when you handle a relative adoption that falls under these categories, you **do not need to involve an adoption agency for matching or placement approval**. However, note that **all other legal requirements (petition, home study or background checks, etc.) still apply** unless separately exempted. Essentially, HB 5 confirms that these intra-family adoptions can be handled more simply.

- **Assessor’s Pre-Consent Counseling Not Required:** Ohio law requires that before a birth parent’s consent is executed, an assessor (social worker or adoption assessor) often must meet with the parent to ensure the decision is informed (R.C. 3107.082). Continuing law already waived that for step-parent adoptions and for when the parent consenting resides out-of-state. HB 5 adds that if the adoption is being done by the child’s **adult sibling or grandparent**, the usual pre-consent assessor counseling is **not** required legislature.ohio.gov. This exemption acknowledges that in such family situations, an external counseling session may be unnecessary. For practice: if you’re obtaining a consent from a birth parent for a grandparent or sibling adoption, you are no longer mandated to arrange that extra meeting with a social worker

beforehand. (Of course, it may still be wise to ensure the parent fully understands their rights, but it's not a statutory requirement now.)

- **No Foster-Placement Precertification Needed for Sibling**

Adoptions: Under child placement laws, typically if a non-relative is adopting, the child's placement with them must have been approved (for example, either the adopter is a licensed foster parent or placement was through an agency certified to place children). Adoptions by a step-parent, grandparent, legal custodian, or guardian were already exempt from certain foster care placement rules (R.C. 5103.16). HB 5 **extends**

this exemption to an adoption by the child's adult sibling legislature.ohio.gov.

In other words, an adult brother or sister adopting a minor doesn't need the placement to be arranged or approved by a foster-care agency or court placement proceeding. This simplifies sibling adoptions – no prior foster certification is required. Attorneys should still ensure that a home study (adoption assessor's report) is done unless waived, but the formal "placement" process is exempted, avoiding extra bureaucracy.

- **Simplified Joint Adoption Definition:** As noted, the spouse of an exempt relative is now automatically covered when a joint petition is filed legislature.ohio.gov. For example, if a married couple is jointly adopting their grandchild, one of whom is the grandparent, the spouse (by marriage) of the grandparent is included in the exemption by definition. This means that couple can proceed without agency involvement or other exempted steps, even though one spouse isn't biologically related to the child legislature.ohio.gov. Previously, the law had a narrower phrasing. For attorneys, this assures you that *both* spouses in such a scenario are treated as exempt petitioners.

Overall, these expanded exemptions **reduce paperwork and steps for family-member adoptions**. Attorneys handling relative adoptions will find the process more straightforward: fewer reports to file and no need to work through a placement agency. Be mindful, however, that **background checks and sometimes a home study may still be needed** (unless waived by the court) to ensure the child's welfare, though Ohio courts often streamline those in relative cases too. Always check your local probate court rules, as some courts have specific forms for relative adoptions.

Financial and Documentation Changes

Several changes in HB 5 impact the financial aspects and required filings in an adoption case:

- **Higher Allowable Birth Mother Expenses:** Ohio limits how much adoptive parents can pay for a birth mother's pregnancy-related living expenses (to prevent unethical inducements). HB 5 **doubles the cap from \$3,000 to \$6,000** legislature.ohio.gov/ohiohouse.gov. Now an adoptive petitioner may pay (through an attorney or agency) up to \$6,000 of the birth mother's *reasonable living expenses* during pregnancy and up to 60 days post-birth probate.franklincountyohio.gov. Attorneys should update any client guidance and fee worksheets accordingly – more expenses (maternity clothes, rent, utilities, etc.) can be covered legally, but you must still document and disclose these in the accounting. This change makes it easier to support birth mothers, but ensure the \$6,000 limit is not exceeded without a court order. It's wise to keep receipts and have the birth mother sign off on any support received, as usual.
- **Relaxed Accounting Requirements:** Ohio law requires filing a **preliminary estimate** of expenses and a **final accounting** of all adoption-related disbursements (R.C. 3107.055) before the adoption is finalized. HB 5 creates new exceptions:
 - **No Final Accounting for Relative Adoptions:** Adoptions by a **grandparent, adult sibling, legal custodian, or guardian** (now in addition to step-parent adoptions) **do not require the filing of the adoption cost accounting** probate.franklincountyohio.gov legislature.ohio.gov. This means if your clients are adopting a family member in those categories, you can skip the formal accounting form of payments and expenses (because typically there are minimal expenses in such cases). This exemption was extended to avoid burdening relative adoptions with paperwork. Always verify your case qualifies under one of those roles; if so, you need not file Form 18.9 (if using Ohio probate forms) for expenses.
 - **"Good Cause" Exception to 10-Day Rule:** Under prior law, the final accounting had to be filed at least *10 days before* the final

decree or hearing. HB 5 gives courts discretion to **waive the 10-day filing rule for good cause** probate.franklincountyohio.gov. For example, if an unexpected expense occurred last-minute or paperwork was delayed, the court can still proceed with the final hearing without waiting a full 10 days after the accounting. Attorneys should *strive* to file the accounting on time, but know that if you have a reasonable explanation, you can ask the court to accept a slightly late accounting so the adoption isn't delayed probate.franklincountyohio.gov.

- **Preliminary Estimate Exemption:** The law also specifies that those same relative adoptions are exempt from the **preliminary estimate of expenses** requirement as well legislature.ohio.gov. (Stepparent adoptions were already exempt; HB 5 adds grandparent, adult sib, etc.) This further streamlines the process – no need to file the initial budget of expected fees in these cases.
- **Updated Forms & Language:** Attorneys should expect updated **Supreme Court probate forms** or local court forms to reflect HB 5 changes. For instance, the **standard Notice of Petition for Adoption** form will need to include the new statutory language about parental rights termination and the 14/28-day objection deadlines and right to counsel legislature.ohio.gov legislature.ohio.gov. Ensure you use the revised forms or incorporate the new language into your custom documents. Likewise, consent forms and petitions might be updated to reflect new code references (HB 5 recodified some sections, renumbering a few provisions legislature.ohio.gov – e.g., the former R.C. 3107.13 “placement length” requirement is now in R.C. 3107.02). It’s important to use current citations and terms (for example, use “placement” as defined in the new law, rather than outdated terminology).
- **Proof of Notices:** As mentioned earlier, a new compliance step is making sure **proof of service** of notice is filed legislature.ohio.gov. In practice, this means preparing affidavits of service or getting certified mail green cards back. Attorneys should build this into their workflow – after sending required notices to all parties (birth parent, putative father, agency, etc.), promptly file the proof with the court. Courts may have a new form or expect a standard affidavit of service.

- **Gender-Neutral Language and Defined Terms:** HB 5 updated many adoption statutes to be gender-neutral (e.g., using “the person” or “parent(s)” instead of “he” or “mother/father”) legislature.ohio.gov. It also added formal definitions for terms like “adoption,” “legal custodian,” “legal custody,” “party,” and “placement” legislature.ohio.gov. These don’t change practice per se, but attorneys should be familiar with them. For example, “*placement*” is now defined as the act of an agency **or a parent using an agency/attorney** to arrange care or custody of a child for adoption legislature.ohio.gov – emphasizing that independent adoptions must still comply with placement laws unless exempt. Knowing these definitions can help you interpret the statute correctly in edge cases.

In sum, HB 5’s financial and admin changes aim to reduce paperwork for family adoptions and allow more support for birth mothers. Attorneys should revise their **checklists**: in non-relative cases, you’ll still prepare estimates and accountings (with a higher expense cap), but in relative cases you can skip some of those filings. Always confirm with each probate court, as some may issue local rules or guidance aligning with HB 5.

International and Adult Adoption Updates

- **Foreign Adoptions Recognized without Re-Adoption:** A very noteworthy change: if an Ohio resident has adopted a child **internationally**, they often would seek an Ohio adoption decree or “re-adoption” for recognition. HB 5 simplifies this. Now, a **foreign adoption decree is automatically recognized as valid and final in Ohio** *without* any further court action *if* two conditions are met: **(1)** at least one of the adoptive parents is an Ohio resident, **and (2)** the child’s immigration visa is an IR-3, IH-3, or equivalent, indicating the adoption was full and final overseas legislature.ohio.gov. In such cases, Ohio law says no additional adoption petition is required – the foreign adoption “must be considered final” under Ohio law legislature.ohio.gov. This is a big change in compliance: attorneys should advise clients who completed a *full* adoption abroad (with both parents if married) that they **do not need to re-adopt in Ohio** now legislature.ohio.gov. The foreign decree + IR-

3/IH-3 visa is enough for legal recognition legislature.ohio.gov. (Under prior law, Ohio already recognized foreign adoptions but many families still did a local proceeding to get a state birth certificate or if only one parent had adopted abroad.) HB 5 basically codifies that re-adoption is optional rather than required.

- **Optional Registration of Foreign Adoption:** Although no new adoption petition is needed for those cases, HB 5 provides a mechanism to **register the foreign adoption with the probate court**. Either adoptive parent, or a guardian/guardian ad litem for the child, may file a petition in their county **to register the foreign adoption** legislature.ohio.gov. Upon proof of the foreign decree and the child's visa status, the court can order the Ohio Department of Health to issue a **"foreign birth record" (Ohio birth certificate) for the child** legislature.ohio.gov. The court may also, as part of that order, **change the child's name** to the adoptive name and, if a physician recommends it, **correct the birthdate** (sometimes done if foreign records had estimates) legislature.ohio.gov. This registration process is simpler than a full adoption petition – essentially it's an administrative confirmation of the foreign adoption. For attorneys, you might assist clients with preparing the documentation (certified translation of foreign decree, proof of IR-3/IH-3 visa issuance, etc.). Note that if the foreign adoption was not finalized abroad (e.g., an IR-4 visa where the adoption had to be completed here), then the parents still must do an Ohio adoption proceeding as before. HB 5's recognition applies to *final* foreign judgments. The key takeaway: advise internationally adopting clients of the **new, easier route** to Ohio recognition and obtaining a state birth certificate, without the formality of a second adoption hearing, provided they meet the criteria legislature.ohio.gov.
- **Adult Adoption – Developmental Disabilities:** Ohio has allowed adult adoptions under limited circumstances (typically when the adult is a step-child, or is disabled, or established child-foster relationships before 18, etc.). Previously, adult adoption on the basis of disability required the adult to be "mentally retarded" or as phrased in law, to have an intellectual disability, to permit the adoption. HB 5 updates this by allowing adoption of an adult who has **any developmental disability**,

not solely an intellectual disability^{ohiohouse.gov}. The law references the definition in R.C. 5123.01, which includes conditions manifesting before age 22 that are expected to continue indefinitely and substantially impair functioning (this could include autism spectrum disorders, cerebral palsy, etc.)^{legislature.ohio.gov}^{legislature.ohio.gov}. This broadened definition means more families can choose to adopt an adult child with disabilities to formalize legal family ties. For legal practice, if you have clients who serve as long-term caregivers or guardians for an adult with developmental disabilities, you can now pursue an adoption where it might not have been allowed before (unless the disability met the old “intellectual impairment” standard). The procedure for adult adoption otherwise remains the same (no home study or agency needed; just consent of the adult being adopted and, if applicable, their guardian’s consent). HB 5 did not significantly change other aspects of adult adoption, but this expansion is important to note when assessing eligibility.

- **Other “Who May Adopt” Clarifications:** HB 5 *repealed an obsolete provision* that had allowed an “unmarried minor parent” of a child to adopt that child^{legislature.ohio.gov}. (This likely referred to a scenario under prior law that is no longer relevant – essentially, a minor who gives birth is already the legal parent and doesn’t need to “adopt” their own child.) In practical terms, minors generally **cannot** be adopting parents in Ohio (except possibly emancipated minors in rare cases), and HB 5 cleaned up the statute to reflect that. The Act also clarified spousal consent rules for married adoptive petitioners (as discussed in the step-parent context above). Aside from enabling adult developmental disability adoptions, HB 5 does not restrict or newly allow categories of who may adopt – Ohio continues to permit single adults or married couples to adopt, without discrimination, consistent with prior law. The focus was on removing outdated barriers rather than changing eligibility for prospective adoptive parents^{ohiohouse.gov}^{ohiohouse.gov}.

“Best Interest of the Child” and Contested Adoption Changes

HB 5 places a sharper focus on the **best interest of the child standard**, especially in contested cases, and shifts some burdens:

- **“Best Interest” Factors Defined:** The Act adds a definition of *“best interest”* for purposes of adoption law, tying it to factors used in contested adoption determinations legislature.ohio.gov. When an adoption is contested (e.g. a birth parent objects and the case proceeds to a hearing on whether the adoption should be granted), the court must consider *all relevant factors* to determine the child’s best interest. HB 5 enumerates examples, including:

- The least detrimental available alternative for the child’s growth and development (i.e. the option that causes the least long-term harm) legislature.ohio.gov.
- The child’s age and health, and, if applicable, the time of any removal from the home (how those impact the child’s needs) legislature.ohio.gov.
- The child’s wishes, if the child is of suitable age and maturity to express wishes legislature.ohio.gov.

These factors align with those used in other family law contexts. HB 5 also instructs that these *“best interest” factors apply to any adoption matters where the term isn’t already defined* legislature.ohio.gov. For example, when a minor over 12 consents to their adoption, the court might still refuse to require that consent if it’s not in the child’s best interest; now the court would use the same factors to decide that legislature.ohio.gov. For attorneys, the key point is that the law now gives *statutory guidance* on best-interest considerations. Be prepared to address these factors in any contested adoption hearing or in briefs. It may be useful to present evidence on the child’s developmental needs, attachments, etc., in light of these factors.

- **No Age Discrimination Against Adopters:** As mentioned earlier, HB 5 **prohibits the court from considering an adoptive petitioner’s age as a factor** in best interest, *as long as the petitioner is legally eligible to adopt* legislature.ohio.gov legislature.ohio.gov. This means if, for example, grandparents of a child are petitioning to adopt, the court should not view their older

age negatively **if** they are otherwise qualified (Ohio law doesn't set an upper age limit on adoptive parents). This was a response to cases where age was raised as a concern; now it's clear that only the statutory criteria (like financial, physical ability to care for the child) matter, not age per se. Attorneys representing older relative caregivers or other older clients should cite this provision to alleviate any bias regarding age in contested cases.

- **Burden of Proof in Contested Adoptions:** Perhaps one of the most significant shifts: HB 5 changes who bears the burden of proof when an adoption is contested. **Now the adoptive petitioner(s) carry the burden to prove that the adoption is in the child's best interest, by a preponderance of the evidence** legislature.ohio.gov. Under prior law, once consent was found unnecessary (say a parent was found to have abandoned the child), the burden was largely on the objecting birth parent to prove the adoption was not in the child's best interest and that the current placement (with the petitioner) was not the least detrimental alternative. HB 5 eliminates that old framework legislature.ohio.gov legislature.ohio.gov. Instead, once in a contested hearing, it's up to the adoptive parents (and their counsel) to affirmatively demonstrate that placing the child with them permanently is best for the child. Practically, this means if you represent the adoptive family, you should be ready to present evidence (testimony, home study details, expert witnesses if needed) showing the child will thrive with the adoptive family and that alternatives (like remaining with a birth relative or in foster care) are less ideal. If you represent the objecting birth parent, this shift is advantageous – you can emphasize any weaknesses in the adoptive petitioner's case without having a formal burden to prove an alternative. The "preponderance of evidence" standard is relatively low (just more likely than not), but the shift ensures the adopting party must make their case for best interest.
- **Withdrawal of Consent:** Another tweak (though not likely common in practice) is that HB 5 slightly modified the rules around withdrawing a consent to adoption. It simplifies language to state a consent is irrevocable once given, except that it **can be withdrawn prior to an interlocutory or final decree if the court finds withdrawal is in the**

child's best interest legislature.ohio.gov. Previously the statute had more complex wording about when consents could be withdrawn. For attorneys, the takeaway is that once a parent signs consent, it's final unless they move to withdraw **before** finalization and can convince the court the child would be better off not being adopted. This is a high bar, so true revocations will remain rare.

Practical Takeaways for Adoption Attorneys

House Bill 5 brings numerous statutory changes that Ohio attorneys must integrate into their adoption practice. In summary:

- **Update Forms & Checklists:** Revise all standard forms (petitions, notices, consents, etc.) to align with new requirements – especially the notice to biological parents, which now needs 30-day advance service, new objection deadlines, and counsel advisement legislature.ohio.gov. Ensure your case checklist accounts for filing proof of notice service legislature.ohio.gov and for the new steps like CSEA notification post-decree legislature.ohio.gov.
- **Advise Clients on Timelines:** Inform prospective adoptive parents that uncontested cases might take a bit longer upfront due to the 30-day notice period (particularly newborn adoptions now have a mandatory wait of at least 30 days before hearing). However, relative/foster cases might finalize faster after 6 months since prior placement time counts ohiohouse.gov. Manage expectations accordingly.
- **Coordinate with Agencies When Required:** While relatives can proceed without agency placement, any adoption that doesn't fall into an exempt category must still involve a licensed agency or attorney for placement. Make sure clients understand that private matching of a child with unrelated adoptive parents must be done through proper channels (to comply with Ohio's placement laws legislature.ohio.gov). When working with agencies (e.g. for a surrender or a foster adoption), communicate about the new requirement for an updated case plan on surrenders legislature.ohio.gov and ensure the agency is notified of court dates legislature.ohio.gov.

- **Document Everything:** With the heightened focus on notice and proof of service, meticulous documentation is key. Keep records of all attempts at contact with birth parents, and if a parent cannot be located, be prepared to demonstrate due diligence for service by publication per the new timelines.
- **Leverage the New Law Benefits:** Use HB 5's provisions to your client's advantage. For instance, if representing a kinship adopter, cite the law to waive unnecessary procedures (no accounting, no agency involvement, etc.) legislature.ohio.gov. If finalizing an international adoption, save the client time and money by doing a simple registration for an Ohio birth certificate instead of a full re-adoption legislature.ohio.gov. If a birth parent in a foster case is willing to surrender, help expedite the process under the new surrender provisions legislature.ohio.gov.
- **Stay Compliant:** Ensure compliance with the new \$6,000 expense cap – update escrow agreements and remind adoptive parents of the limits legislature.ohio.gov. Double-check that any non-relative placement had proper approval or falls under the expanded exemptions.
- **Court Collaboration:** Courts are also adapting to HB 5. Look out for local rule changes or guidance from probate courts on implementing the law. Some courts (like Franklin County Probate Court) have published summaries of HB 5 probate.franklincountyohio.gov, and the Ohio Supreme Court may update standardized forms statewide. Staying informed will help you avoid any misstep during this transition.

House Bill 5 ultimately *streamlines adoption practice* in Ohio by removing outdated hurdles and clarifying procedures ohiohouse.gov. For legal professionals, it means a period of adjustment – updating practices to meet new standards – but also a more efficient process for helping families. By understanding the above changes, Ohio attorneys can confidently guide adoptive parents through the updated requirements and ensure compliance with the modernized adoption law. The result, as intended by the legislature, is an adoption process that is fair, transparent, and better suited to finding children stable, permanent homes in a timely manner ohiohouse.gov.

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