

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1518

SPONSOR: Judiciary Committee and Senator Campbell

SUBJECT: Adoption

DATE: March 7, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	Johnson	JU	Favorable/CS
2.	_____	_____	CF	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

This bill revises the Florida’s adoption law as follows:

- Streamlines adoptions proceedings for adoptions by stepparents by allowing the petitions for termination of parental rights and a petition for adoption to be consolidated and addressed in a single hearing; and
- Allows the court to domesticate out-of-country judgments of adoption for purposes of official recognition and issuance of a foreign birth certificate.

The bill amends the following sections of law: 63.102, 63.122, and 63.192.

II. Present Situation:

In 2001, the Legislature comprehensively amended Florida’s adoption law, which became law without the Governor’s signature on April 18, 2001. *See* ch. 2000-03, L.O.F.; CS/HB 141. The provisions of the Act become effective October 1, 2001. The cumulative effect of the Act was to provide uniformity, continuity, clarification and finality regarding proceedings for termination of parental rights and proceedings for adoption. It streamlined the total adoption process by providing for a uniform bifurcated procedural framework whereby the proceedings for termination of parental rights are completed before the proceedings for the creation of new parental rights may be initiated. It added registered child-caring agencies to the list of entities eligible to handle adoptions. It set forth explicit and comprehensive disclosure, consent, notice, service, and hearing requirements in termination of parental rights and adoption proceedings.

Certain provisions of the adoption law do not apply or are applied differently in cases of stepparent adoptions including requirements governing home studies, out-of-state placements with stepparents, and prior court approval of adoption fees. An issue has been raised that the

process should be streamlined for adoptions by a child's parent's spouse including consolidating the process for termination of parental rights and the final adoption.

Another issue raised in review of the adoption law is the domestication of foreign (out-of-country) judgments of adoption. Section 63.192, F.S., currently provides that a judgment terminating parental rights or finalizing adoption and issued pursuant to due process of law by a court of appropriate jurisdiction outside the state or outside the United States must be given recognition and is enforceable as if the judgment had been issued by a court of this state. It has been anecdotally reported that in practice, adoptive parents are having to relitigate the entire adoption process in Florida in order to secure official recognition of the foreign judgment entered in another country. The Division of Vital Statistics of the Department of Health will not issue a certificate of foreign birth for an adopted child unless a judgment of adoption is entered by a court of this state. See s. 382.017, F.S. In addition, the division requires the judgment to be certified with proof of date and place of the adoptee's birth and a request from the court that the certificate be prepared.

III. Effect of Proposed Changes:

This bill amends s. 63.102, F.S., to allow petitions for termination of parental rights and adoption to be consolidated into a single petition in those cases where a child is being adopted by a stepparent and the parent whose rights are being terminated has executed a consent pursuant to s. 63.082, F.S.

The bill amends s. 63.122, F.S., to allow a single hearing to address both the petition for termination of parental rights and the adoption when the adoption of a child is by the stepparent.

The bill amends. 63.192, F.S., relating to foreign judgments of adoption. It authorizes a court to recognize an out-of-country judgment of adoption upon a finding that the judgment is authentic. It requires the adoptive parents to file the judgment but the adoptive parents are not required to demonstrate that the adoption process, and the substantive rights or due process rights applicable in the foreign jurisdiction were similar or equivalent to those of Florida. A court order recognizing the foreign judgment of adoption entitles the adoptee to obtain a certificate of foreign birth under s. 382.017, F.S.

The act shall take effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill provides for the express recognition of a foreign (out-of-country) judgment of adoption by a court that finds that the judgment is authentic. This is a process outside the established process for recording and recognition of other foreign judgments (i.e., by another state) as set forth in ss.55.501-66.509, F.S. The process established under this bill is somewhat vague and may present some constitutional concern as to the validity and authenticity of the foreign documents. Typically, as to judgments rendered in foreign nations, states are not required to give full faith and credit but it is also a matter of judicial comity whereby a state may recognize a judgment of another jurisdiction based on whether the parties have been given notice and the opportunity to be heard, where the foreign court had original jurisdiction, and where the foreign decree does not offend the public policy of the State of Florida. Notably, Florida law provides express provisions for the recognition and enforceability of money judgments entered by a foreign state (i.e., out-of-the country), including grounds for nonrecognition and appeals. *See* ss. 55.601-55.607, F.S.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may facilitate adoptions by stepparents and reduce the costs attendant with filing two petitions and holding two separate hearings.

The bill may also minimize the relitigation of out-of-country judgments of adoption once a child is brought over to Florida, presuming the foreign judgments were entered by courts of competent jurisdiction and are conclusively valid. This change will also facilitate the issuance of foreign birth certificates.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As amended by s. 63.192, F.S., it may need to be clarified whether a distinction exists between the recognition of foreign judgments of adoption entered by states outside the state of Florida and those entered outside the country and that, as such, different requisites may apply. The bill also does not address what will constitute an “authenticate” foreign documentation.

When an amendment is made to a section in existing law, any law (or portion thereof) that cross-references that section must be reenacted (or republished) in order for the amendments to that section in the bill to be incorporated into the section. Otherwise, the provision of the law that cross-references the section (as amended by the bill) will remain a cross-reference to the section as it existed prior to the amendment in the bill. Several sections amended by this bill are cross-referenced in existing sections of law.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
