

HB 789

2007

1 A bill to be entitled
2 An act relating to adoption; amending s. 63.042, F.S.;
3 providing that a person who is a homosexual is eligible to
4 adopt a child under certain enumerated circumstances;
5 requiring that certain eligibility criteria be met by
6 clear and convincing evidence; providing that a person who
7 is a homosexual is eligible to adopt a child if the
8 child's parents are deceased, the person proposing to
9 adopt the child is the guardian of the child, and certain
10 additional specified conditions have been met; providing
11 that certain provisions of the act apply only with respect
12 to a petition, declaration, or will or codicil that is
13 filed or executed on or after a certain date; providing an
14 effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Subsection (3) of section 63.042, Florida
19 Statutes, is amended to read:

20 63.042 Who may be adopted; who may adopt.--

21 (3)(a) A No person is not eligible to adopt under this
22 statute ~~may adopt~~ if that person is a homosexual, except as
23 provided in paragraph (b) or paragraph (c).

24 (b) A person who is a homosexual is eligible to adopt if a
25 court finds, by clear and convincing evidence, that:

26 1. The child has resided with the person proposing to
27 adopt the child;

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28 2. The child recognizes the person proposing to adopt the
29 child as the child's parent; and

30 3. The best interest of the child will be served by
31 approving the adoption. In determining the best interest of the
32 child, the court shall consider whether granting the child
33 permanency in the home of the person proposing to adopt the
34 child is more beneficial to the child's developmental and
35 psychological needs than maintaining the child in temporary
36 placement.

37 (c) A person who is a homosexual is eligible to adopt if
38 both parents of the child are deceased and the person proposing
39 to adopt the child is the guardian of the person of the minor as
40 a result of:

41 1. A petition that has been filed by the parent or parents
42 under s. 744.304, that names the person proposing to adopt the
43 child as the guardian of the person of the minor, and that
44 expresses the intent that the guardian be eligible to adopt the
45 child;

46 2. A declaration that has been made by both parents or the
47 last surviving parent, that meets the requirements of s.
48 744.3046, that names the person proposing to adopt the child as
49 the guardian of the person of the minor, and that expresses the
50 intent that the guardian be eligible to adopt the child; or

51 3. A designation that is in the last surviving parent's
52 will, that names the person proposing to adopt the child as the
53 guardian of the person of the minor, and that expresses the
54 intent that the guardian be eligible to adopt the child.

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56 An expression that the person proposing to adopt the child be
57 eligible to adopt the child as required under this paragraph
58 must exist in order for this exception to apply.

59 (d) The exceptions provided in paragraph (c) apply only
60 to:

61 1. A petition that is filed under s. 744.304 by the parent
62 or parents of the minor on or after July 1, 2007, that names the
63 person proposing to adopt the child as the guardian of the
64 person of the minor, and that expresses the intent that the
65 guardian be eligible to adopt the child;

66 2. A declaration that is filed with the clerk of the court
67 on or after July 1, 2007, by both parents or the last surviving
68 parent, that meets the requirements of s. 744.3046, that names
69 the person proposing to adopt the child as the guardian of the
70 person of the minor, and that expresses the intent that the
71 guardian be eligible to adopt the child; or

72 3. A will or codicil that is executed on or after July 1,
73 2007, that names the person proposing to adopt the child as the
74 guardian of the person of the minor, and that expresses the
75 intent that the guardian be eligible to adopt the child.

76 Section 2. This act shall take effect July 1, 2007.