

By Senator Rich

34-00238-08

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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 section statute may adopt if that person is a homosexual, except

23 as 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 adopt

27 the child;

28 2. The child recognizes the person proposing to adopt the

29 child as the child's parent; and

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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 child
34 is more beneficial to the child's developmental and psychological
35 needs than maintaining the child in temporary placement.

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

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

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

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

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

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

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59 1. A petition that is filed under s. 744.304 by the parent
60 or parents of the minor on or after July 1, 2008, that names the
61 person proposing to adopt the child as the guardian of the person
62 of the minor, and that expresses the intent that the guardian be
63 eligible to adopt the child;

64 2. A declaration that is filed with the clerk of the court
65 on or after July 1, 2008, by both parents or the last surviving
66 parent, that meets the requirements of s. 744.3046, that names
67 the person proposing to adopt the child as the guardian of the
68 person of the minor, and that expresses the intent that the
69 guardian be eligible to adopt the child; or

70 3. A will or codicil that is executed on or after July 1,
71 2008, that names the person proposing to adopt the child as the
72 guardian of the person of the minor, and that expresses the
73 intent that the guardian be eligible to adopt the child.

74 Section 2. This act shall take effect July 1, 2008.