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LEGISLATIVE ACTION

Senate

House

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04/08/2015 05:51 PM

Senator Stargel moved the following:

Senate Amendment (with directory and title amendments)

Between lines 192 and 193

insert:

(5) No person shall be eligible to adopt under this section if the person has ever been determined by a court to be a sexual predator as defined in s. 775.21, designated as a sexual offender under s. 943.0435(1)(a)1., convicted of an offense listed in 63.089(4)(b)2. in this state or a similar offense in another jurisdiction, or convicted of an offense listed in s.



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11 943.0435(1)(a)1.a.(I) in this state or a similar offense in
12 another jurisdiction.

13 Section 3. Section 63.092, Florida Statutes, is amended to
14 read:

15 63.092 Report to the court of intended placement by an
16 adoption entity; at-risk placement; preliminary study.—

17 (1) REPORT TO THE COURT.—The adoption entity must report
18 any intended placement of a minor for adoption with any person
19 who is not a relative or a stepparent if the adoption entity
20 participates in the intended placement. The report must be made
21 to the court before the minor is placed in the home or within 2
22 business days thereafter.

23 (2) AT-RISK PLACEMENT.—If the minor is placed in the
24 prospective adoptive home before the parental rights of the
25 minor's parents are terminated under s. 63.089, the placement is
26 an at-risk placement. If the placement is an at-risk placement,
27 the prospective adoptive parents must acknowledge in writing
28 before the minor may be placed in the prospective adoptive home
29 that the placement is at risk. The prospective adoptive parents
30 shall be advised by the adoption entity, in writing, that the
31 minor is subject to removal from the prospective adoptive home
32 by the adoption entity or by court order at any time prior to
33 the finalization of the adoption.

34 (3) PRELIMINARY HOME STUDY.—Before placing the minor in the
35 intended adoptive home, a preliminary home study must be
36 performed by a licensed child-placing agency, a child-caring
37 agency registered under s. 409.176, a licensed professional, or
38 an agency described in s. 61.20(2), unless the adoptee is an
39 adult or the petitioner is a stepparent or a relative. If the



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40 adoptee is an adult or the petitioner is a stepparent or a
41 relative, a preliminary home study may be required by the court
42 for good cause shown. The department is required to perform the
43 preliminary home study only if there is no licensed child-
44 placing agency, child-caring agency registered under s. 409.176,
45 licensed professional, or agency described in s. 61.20(2), in
46 the county where the prospective adoptive parents reside. The
47 preliminary home study must be made to determine the suitability
48 of the intended adoptive parents and may be completed prior to
49 identification of a prospective adoptive minor. A favorable
50 preliminary home study is valid for 1 year after the date of its
51 completion. Upon its completion, a signed copy of the home study
52 must be provided to the intended adoptive parents who were the
53 subject of the home study. A minor may not be placed in an
54 intended adoptive home before a favorable preliminary home study
55 is completed unless the adoptive home is also a licensed foster
56 home under s. 409.175. The preliminary home study must include,
57 at a minimum:

- 58 (a) An interview with the intended adoptive parents;
- 59 (b) Records checks of the department's central abuse
60 registry and criminal records correspondence checks under s.
61 39.0138 through the Department of Law Enforcement on the
62 intended adoptive parents;
- 63 (c) An assessment of the physical environment of the home;
- 64 (d) A determination of the financial security of the
65 intended adoptive parents;
- 66 (e) Documentation of counseling and education of the
67 intended adoptive parents on adoptive parenting;
- 68 (f) Documentation that information on adoption and the



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69 adoption process has been provided to the intended adoptive
70 parents;

71 (g) Documentation that information on support services
72 available in the community has been provided to the intended
73 adoptive parents; and

74 (h) A copy of each signed acknowledgment of receipt of
75 disclosure required by s. 63.085.

76

77 If the preliminary home study is favorable, a minor may be
78 placed in the home pending entry of the judgment of adoption. A
79 minor may not be placed in the home if the preliminary home
80 study is unfavorable. If the preliminary home study is
81 unfavorable, the adoption entity may, within 20 days after
82 receipt of a copy of the written recommendation, petition the
83 court to determine the suitability of the intended adoptive
84 home. A determination as to suitability under this subsection
85 does not act as a presumption of suitability at the final
86 hearing. In determining the suitability of the intended adoptive
87 home, the court must consider the totality of the circumstances
88 in the home. A minor may not be placed in a home in which there
89 resides any person determined by the court to be a sexual
90 predator as defined in s. 775.21, any person who has ever been
91 designated as a sexual offender under s. 943.0435(1)(a)1., or
92 any person who has ~~to have~~ been convicted of an offense listed
93 in s. 63.089(4)(b)2., or s. 943.0435(1)(a)1.a.(I), in this state
94 or a similar offense in another jurisdiction.

95 Section 4. For the purpose of incorporating the amendment
96 made by this act to section 63.092, Florida Statutes, in a
97 reference thereto, subsection (2) of section 63.052, Florida



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98 Statutes, is reenacted to read:

99 63.052 Guardians designated; proof of commitment.—

100 (2) For minors who have been voluntarily surrendered to an
101 intermediary through an execution of a consent to adoption, the
102 intermediary shall be responsible for the minor until the time a
103 court orders preliminary approval of placement of the minor in
104 the prospective adoptive home, after which time the prospective
105 adoptive parents shall become guardians pending finalization of
106 adoption, subject to the intermediary's right and responsibility
107 to remove the child from the prospective adoptive home if the
108 removal is deemed by the intermediary to be in the best
109 interests of the child. The intermediary may not remove the
110 child without a court order unless the child is in danger of
111 imminent harm. The intermediary does not become responsible for
112 the minor child's medical bills that were incurred before taking
113 physical custody of the child after the execution of adoption
114 consents. Prior to the court's entry of an order granting
115 preliminary approval of the placement, the intermediary shall
116 have the responsibility and authority to provide for the needs
117 and welfare of the minor. A minor may not be placed in a
118 prospective adoptive home until that home has received a
119 favorable preliminary home study, as provided in s. 63.092,
120 completed and approved within 1 year before such placement in
121 the prospective home. The provisions of s. 627.6578 shall remain
122 in effect notwithstanding the guardianship provisions in this
123 section.

124 Section 5. For the purpose of incorporating the amendment
125 made by this act to section 63.092, Florida Statutes, in a
126 reference thereto, subsection (7) of section 63.062, Florida



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127 Statutes, is reenacted to read:

128 63.062 Persons required to consent to adoption; affidavit
129 of nonpaternity; waiver of venue.—

130 (7) If parental rights to the minor have previously been
131 terminated, the adoption entity with which the minor has been
132 placed for subsequent adoption may provide consent to the
133 adoption. In such case, no other consent is required. The
134 consent of the department shall be waived upon a determination
135 by the court that such consent is being unreasonably withheld
136 and if the petitioner has filed with the court a favorable
137 preliminary adoptive home study as required under s. 63.092.

138 Section 6. For the purpose of incorporating the amendment
139 made by this act to section 63.092, Florida Statutes, in a
140 reference thereto, paragraph (c) of subsection (2) of section
141 63.097, Florida Statutes, is reenacted to read:

142 63.097 Fees.—

143 (2) The following fees, costs, and expenses may be assessed
144 by the adoption entity or paid by the adoption entity on behalf
145 of the prospective adoptive parents:

146 (c) Expenses necessary to comply with the requirements of
147 this chapter, including, but not limited to, service of process
148 under s. 63.088, investigator fees, a diligent search under s.
149 63.088, a preliminary home study under s. 63.092, and a final
150 home investigation under s. 63.125.

151 Section 7. For the purpose of incorporating the amendment
152 made by this act to section 63.092, Florida Statutes, in a
153 reference thereto, paragraph (b) of subsection (2) of section
154 63.112, Florida Statutes, is reenacted to read:

155 63.112 Petition for adoption; description; report or



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156 recommendation, exceptions; mailing.-

157 (2) The following documents are required to be filed with
158 the clerk of the court at the time the petition is filed:

159 (b) The favorable preliminary home study of the department,
160 licensed child-placing agency, or professional pursuant to s.
161 63.092, as to the suitability of the home in which the minor has
162 been placed, unless the petitioner is a stepparent or a
163 relative.

164 Section 8. For the purpose of incorporating the amendment
165 made by this act to section 63.092, Florida Statutes, in a
166 reference thereto, subsection (1) of section 63.125, Florida
167 Statutes, is reenacted to read:

168 63.125 Final home investigation.-

169 (1) The final home investigation must be conducted before
170 the adoption becomes final. The investigation may be conducted
171 by a licensed child-placing agency or a professional in the same
172 manner as provided in s. 63.092 to ascertain whether the
173 adoptive home is a suitable home for the minor and whether the
174 proposed adoption is in the best interest of the minor. Unless
175 directed by the court, an investigation and recommendation are
176 not required if the petitioner is a stepparent or if the minor
177 is related to one of the adoptive parents within the third
178 degree of consanguinity. The department is required to perform
179 the home investigation only if there is no licensed child-
180 placing agency or professional pursuant to s. 63.092 in the
181 county in which the prospective adoptive parent resides.

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183 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

184 And the directory clause is amended as follows:



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185 Delete line 181
186 and insert:
187 (3), and a new subsection (4) and subsection (5) are added to
188 that section, to read:
189 ===== T I T L E A M E N D M E N T =====
190 And the title is amended as follows:
191 Delete line 10
192 and insert:
193 desires to educate the adopted child at home;
194 prohibiting certain individuals from adopting;
195 amending s. 63.092, F.S.; revising the circumstances
196 that preclude a minor from being placed in the home
197 where certain persons reside; reenacting ss.
198 63.052(2), 63.062(7), 63.097(2)(c), 63.112(2)(b), and
199 63.125(1), F.S., relating to guardians designated and
200 proof of commitment; persons required to consent to
201 adoption, affidavit of nonpaternity, and waiver of
202 venue; fees; petition for adoption, description,
203 report or recommendations, exceptions, and mailings;
204 and final home investigations, respectively, to
205 incorporate the amendment made to s. 63.092, F.S., in
206 references thereto; amending