

By the Committees on Fiscal Policy; Judiciary; and Children, Families, and Elder Affairs; and Senators Detert and Gaetz

594-02379-16

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1 A bill to be entitled

2 An act relating to adoption; amending s. 39.01, F.S.;
3 redefining the terms "abandoned" or "abandonment" and
4 "parent"; amending s. 63.082, F.S.; revising the
5 circumstances under which an adoption consent is
6 valid, binding, and enforceable; requiring a court to
7 determine, under certain circumstances, whether a
8 change of placement of a child is in the child's best
9 interests, rather than whether the change of placement
10 is appropriate; deleting a determination that a court
11 must consider under certain circumstances; authorizing
12 the court to establish certain requirements for the
13 transfer of custody; providing factors that the court
14 shall consider and weigh under certain circumstances;
15 revising circumstances under which a court must
16 provide written notice to a parent of specified
17 information; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Subsections (1) and (49) of section 39.01,
22 Florida Statutes, are amended to read:

23 39.01 Definitions.—When used in this chapter, unless the
24 context otherwise requires:

25 (1) "Abandoned" or "abandonment" means a situation in which
26 the parent or legal custodian of a child or, in the absence of a
27 parent or legal custodian, the caregiver, while being able, has
28 made no significant contribution to the child's care and
29 maintenance or has failed to establish or maintain a substantial
30 and positive relationship with the child, or both. For purposes
31 of this subsection, "establish or maintain a substantial and

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32 positive relationship" includes, but is not limited to, frequent
33 and regular contact with the child through frequent and regular
34 visitation or frequent and regular communication to or with the
35 child, and the exercise of parental rights and responsibilities.
36 Marginal efforts and incidental or token visits or
37 communications are not sufficient to establish or maintain a
38 substantial and positive relationship with a child. A man's
39 acknowledgement of paternity of the child does not limit the
40 period of time considered in determining whether the child was
41 abandoned. The term does not include a surrendered newborn
42 infant as described in s. 383.50, a "child in need of services"
43 as defined in chapter 984, or a "family in need of services" as
44 defined in chapter 984. The incarceration, repeated
45 incarceration, or extended incarceration of a parent, legal
46 custodian, or caregiver responsible for a child's welfare may
47 support a finding of abandonment.

48 (49) "Parent" means a woman who gives birth to a child and
49 a man whose consent to the adoption of the child would be
50 required under s. 63.062(1). If a child has been legally
51 adopted, the term "parent" means the adoptive mother or father
52 of the child. ~~The term does not include an individual whose~~
53 ~~parental relationship to the child has been legally terminated,~~
54 ~~or an alleged or prospective parent, unless the parental status~~
55 ~~falls within the terms of s. 39.503(1) or s. 63.062(1).~~ For
56 purposes of this chapter only, when the phrase "parent or legal
57 custodian" is used, it refers to rights or responsibilities of
58 the parent and, only if there is no living parent with intact
59 parental rights, to the rights or responsibilities of the legal
60 custodian who has assumed the role of the parent. The term does

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61 not include an individual whose parental relationship to the
62 child has been legally terminated, or an alleged or prospective
63 parent, unless:

64 (a) The parental status falls within the terms of s.
65 39.503(1) or s. 63.062(1); or

66 (b) Parental status is applied for the purpose of
67 determining whether the child has been abandoned.

68 Section 2. Subsection (6) of section 63.082, Florida
69 Statutes, is amended to read:

70 63.082 Execution of consent to adoption or affidavit of
71 nonpaternity; family social and medical history; revocation of
72 consent.—

73 (6) (a) If a parent executes a consent for placement of a
74 minor with an adoption entity or qualified prospective adoptive
75 parents and the minor child is under the supervision in the
76 custody of the department, or otherwise subject to the
77 jurisdiction of the dependency court as a result of the entry of
78 a shelter order petition, a dependency petition, or a petition
79 for termination of parental rights pursuant to chapter 39, but
80 parental rights have not yet been terminated, the adoption
81 consent is valid, binding, and enforceable by the court.

82 (b) Upon execution of the consent of the parent, the
83 adoption entity shall be permitted to intervene in the
84 dependency case as a party in interest and must provide the
85 court that acquired jurisdiction over the minor, pursuant to the
86 shelter or dependency petition filed by the department, a copy
87 of the preliminary home study of the prospective adoptive
88 parents and any other evidence of the suitability of the
89 placement. The preliminary home study must be maintained with

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90 strictest confidentiality within the dependency court file and
91 the department's file. A preliminary home study must be provided
92 to the court in all cases in which an adoption entity has
93 intervened pursuant to this section. Unless the court has
94 concerns regarding the qualifications of the home study
95 provider, or concerns that the home study may not be adequate to
96 determine the best interests of the child, the home study
97 provided by the adoption entity shall be deemed to be sufficient
98 and no additional home study needs to be performed by the
99 department.

100 (c) If an adoption entity files a motion to intervene in
101 the dependency case in accordance with this chapter, the
102 dependency court shall promptly grant a hearing to determine
103 whether the adoption entity has filed the required documents to
104 be permitted to intervene and whether a change of placement of
105 the child is in the best interests of the child ~~appropriate~~.
106 Absent good cause or mutual agreement of the parties, the final
107 hearing on the motion to intervene and the change of placement
108 of the child must be held within 30 days after the filing of the
109 motion and a written final order shall be filed within 15 days
110 after the hearing.

111 (d) If after consideration of all relevant factors,
112 including those set forth in paragraph (e), the court determines
113 ~~Upon a determination by the court~~ that the prospective adoptive
114 parents are properly qualified to adopt the minor child and that
115 the adoption is ~~appears to be~~ in the best interests of the minor
116 child, the court shall promptly ~~immediately~~ order the transfer
117 of custody of the minor child to the prospective adoptive
118 parents, under the supervision of the adoption entity. The court

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119 may establish reasonable requirements for the transfer of
120 custody in the transfer order, including a reasonable period of
121 time to transition final custody to the prospective adoptive
122 parents. The adoption entity shall thereafter provide monthly
123 supervision reports to the department until finalization of the
124 adoption. If the child has been determined to be dependent by
125 the court, the department shall provide information to the
126 prospective adoptive parents at the time they receive placement
127 of the dependent child regarding approved parent training
128 classes available within the community. The department shall
129 file with the court an acknowledgment of the parent's receipt of
130 the information regarding approved parent training classes
131 available within the community.

132 (e) In determining whether the best interests of the child
133 are served by transferring the custody of the minor child to the
134 prospective adoptive parent selected by the parent or adoption
135 entity, the court shall consider and weigh all relevant factors,
136 including, but not limited to: ~~the rights of the parent to~~
137 ~~determine an appropriate placement for the child,~~

138 1. The permanency offered;

139 2. The established bonded relationship between the child
140 and the current caregiver in ~~child's bonding with~~ any potential
141 adoptive home in which ~~that~~ the child has been residing; ~~in~~

142 3. The stability of the potential adoptive home in which
143 the child has been residing as well as the desirability of
144 maintaining continuity of placement; ~~and~~

145 4. The importance of maintaining sibling relationships, if
146 possible;

147 5. The reasonable preferences and wishes of the child, if

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148 the court deems the child to be of sufficient maturity,
149 understanding, and experience to express a preference;

150 6. Whether a petition for termination of parental rights
151 has been filed pursuant to s. 39.806(1)(f), (g), or (h);

152 7. What is best for the child; and

153 8. The right of the parent to determine an appropriate
154 placement for the child.

155 (f) The adoption entity shall be responsible for keeping
156 the dependency court informed of the status of the adoption
157 proceedings at least every 90 days from the date of the order
158 changing placement of the child until the date of finalization
159 of the adoption.

160 (g) At the arraignment hearing held pursuant to s. 39.506,
161 in the order that approves the case plan pursuant to s. 39.603,
162 and in the order that changes the permanency goal to adoption
163 pursuant to s. 39.621 ~~In all dependency proceedings, after it is~~
164 ~~determined that reunification is not a viable alternative and~~
165 ~~prior to the filing of a petition for termination of parental~~
166 ~~rights,~~ the court shall provide written notice to advise the
167 biological parent who is a party to the case of his or her ~~the~~
168 right to participate in a private adoption plan including
169 written notice of the factors provided in paragraph (e).

170 Section 3. This act shall take effect July 1, 2016.