

By Senator Bean

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1 A bill to be entitled
2 An act relating to adoption proceedings; amending s.
3 39.812, F.S.; authorizing a court to review decisions
4 by the Department of Children and Families to deny an
5 application to adopt a child; providing when certain
6 decisions relating to adoption are reviewable;
7 providing requirements for the department, a denied
8 applicant, and the court relating to a motion to
9 review the department's decision; authorizing the
10 department to remove a child from a foster home or
11 custodian under certain circumstances; conforming
12 provisions to changes made by the act; amending s.
13 63.062, F.S.; requiring the department's consent for
14 certain adoptions or, in the alternative, requiring a
15 specified court order to be attached to the petition
16 to adopt; amending s. 63.082, F.S.; providing
17 applicability of a provision relating to a home study
18 of a stepparent or relative required under certain
19 circumstances; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:
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23 Section 1. Present subsections (5) and (6) of section
24 39.812, Florida Statutes, are redesignated as subsections (6)
25 and (7), respectively, a new subsection (5) is added to that
26 section, and subsection (4) and present subsection (5) of that
27 section are amended, to read:

28 39.812 Postdisposition relief; petition for adoption.—
29 (4) The court shall retain jurisdiction over any child

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30 placed in the custody of the department until the child is
31 adopted. After custody of a child for subsequent adoption has
32 been given to the department, the court has jurisdiction for the
33 purpose of reviewing the status of the child and the progress
34 being made toward permanent adoptive placement. As part of this
35 continuing jurisdiction, the court may:

36 (a) For good cause shown by the guardian ad litem for the
37 child, ~~the court may~~ review the appropriateness of the adoptive
38 placement of the child.

39 (b) Review the department's denial of an application to
40 adopt a child. The department's decision to deny an application
41 to adopt a child is reviewable only as provided under this
42 paragraph and is not subject to chapter 120.

43 1. If the department denies an application to adopt, the
44 written notification of denial provided to the applicant shall
45 be filed with the court and copies provided to all parties
46 within 10 business days after the decision.

47 2. A denied applicant or any other party may file a motion
48 to review the department's denial within 30 days after the
49 issuance of the department's written notification of the
50 decision to deny the application.

51 3. A denied applicant has standing under chapter 39 only to
52 file the motion to review in subparagraph 2. and to present
53 evidence in support of such motion. Such standing is terminated
54 upon entry of the court's order.

55 4. The motion to review under subparagraph 2. must allege
56 that the department unreasonably withheld its consent to the
57 adoption and must request that the court allow the denied
58 applicant to file a petition to adopt the child under chapter 63

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59 without the department's consent.

60 5. The court shall hold a hearing within 30 days after the
61 filing of the motion to review. The court may only consider
62 whether the department's denial of the application was
63 consistent with its policies and made in an expeditious manner.
64 The standard of review by the court is whether the department's
65 denial of the application was an abuse of discretion.

66 6. The court shall enter a written order within 15 days
67 after the conclusion of the hearing either denying the motion to
68 review or finding that the department unreasonably withheld its
69 consent and authorizing the denied applicant to file a petition
70 to adopt the child under chapter 63 without the department's
71 consent.

72 (5) When a licensed foster parent or court-ordered
73 custodian has applied to adopt a child who has resided with the
74 foster parent or custodian for at least 6 months and who has
75 previously been permanently committed to the legal custody of
76 the department and the department does not grant the application
77 to adopt, the department may not, in the absence of a prior
78 court order authorizing it to do so, remove the child from the
79 foster home or custodian, except when:

80 (a) There is probable cause to believe that the child is at
81 imminent risk of abuse or neglect;

82 (b) A motion to review the department's denial of
83 application filed under paragraph (4) (b) has been denied by the
84 court;

85 (c) ~~(b)~~ Thirty days have expired following written notice to
86 the foster parent or custodian of the denial of the application
87 to adopt, within which period no motion to review the

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88 department's denial has been filed under paragraph (4) (b) ~~no~~
89 formal challenge of the department's decision has been filed; or

90 (d)(e) The foster parent or custodian agrees to the child's
91 removal.

92 (6)(5) The petition for adoption must be filed in the
93 division of the circuit court which entered the judgment
94 terminating parental rights, unless a motion for change of venue
95 is granted under ~~pursuant to~~ s. 47.122. A copy of the consent
96 executed by the department must be attached to the petition,
97 unless such consent is waived under paragraph (4) (b) waived
98 ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a
99 statement, signed by the prospective adoptive parents,
100 acknowledging receipt of all information required to be
101 disclosed under s. 63.085 and a form provided by the department
102 which details the social and medical history of the child and
103 each parent and includes the social security number and date of
104 birth for each parent, if such information is available or
105 readily obtainable. The prospective adoptive parents may not
106 file a petition for adoption until the judgment terminating
107 parental rights becomes final. An adoption proceeding under this
108 subsection is governed by chapter 63.

109 Section 2. Subsection (7) of section 63.062, Florida
110 Statutes, is amended to read:

111 63.062 Persons required to consent to adoption; affidavit
112 of nonpaternity; waiver of venue.—

113 (7) If parental rights to the minor have previously been
114 terminated, the adoption entity with which the minor has been
115 placed for subsequent adoption may provide consent to the
116 adoption. In such case, no other consent is required. If the

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117 minor has been permanently committed to the department for
118 subsequent adoption, the department must consent to the adoption
119 or, in the alternative, the court order finding that the
120 department unreasonably withheld its consent entered under s.
121 39.812(4) (b) must be attached to the petition to adopt and ~~The~~
122 ~~consent of the department shall be waived upon a determination~~
123 ~~by the court that such consent is being unreasonably withheld~~
124 ~~and if the petitioner must file has filed with the court a~~
125 favorable preliminary adoptive home study as required under s.
126 63.092.

127 Section 3. Paragraph (b) of subsection (6) of section
128 63.082, Florida Statutes, is amended to read:

129 63.082 Execution of consent to adoption or affidavit of
130 nonpaternity; family social and medical history; revocation of
131 consent.—

132 (6)

133 (b) Upon execution of the consent of the parent, the
134 adoption entity shall be permitted to intervene in the
135 dependency case as a party in interest and must provide the
136 court that acquired jurisdiction over the minor, pursuant to the
137 shelter order or dependency petition filed by the department, a
138 copy of the preliminary home study of the prospective adoptive
139 parents and any other evidence of the suitability of the
140 placement. The preliminary home study must be maintained with
141 strictest confidentiality within the dependency court file and
142 the department's file. A preliminary home study must be provided
143 to the court in all cases in which an adoption entity has
144 intervened pursuant to this section. The exemption in s.
145 63.092(3) from the home study for a stepparent or relative does

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146 not apply if a minor is under the supervision of the department
147 or is otherwise subject to the jurisdiction of the dependency
148 court as a result of the filing of a shelter petition,
149 dependency petition, or termination of parental rights petition
150 under chapter 39. Unless the court has concerns regarding the
151 qualifications of the home study provider, or concerns that the
152 home study may not be adequate to determine the best interests
153 of the child, the home study provided by the adoption entity
154 shall be deemed to be sufficient and no additional home study
155 needs to be performed by the department.

156 Section 4. This act shall take effect July 1, 2021.