

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 the  
4 Department of Children and Families' decision to deny  
5 an application to adopt a child; providing  
6 requirements for the department, a denied applicant,  
7 and the court relating to a motion to review the  
8 department's decision; authorizing the department to  
9 remove a child from a foster home or custodian under  
10 certain circumstances; conforming provisions to  
11 changes made by the act; amending s. 63.062, F.S.;  
12 requiring the department's consent for certain  
13 adoptions or, in the alternative, a specified court  
14 order must be attached to the petition to adopt;  
15 providing an effective date.

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

18  
19 Section 1. Subsections (5) and (6) of section 39.812,  
20 Florida Statutes, are renumbered as subsections (6) and (7),  
21 respectively, subsection (4) and present subsection (5) of that  
22 section are amended, and a new subsection (5) is added to that  
23 section, to read:

24 39.812 Postdisposition relief; petition for adoption.—

25 (4) The court shall retain jurisdiction over any child

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

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

35 (b) Review the department's denial of an application to  
36 adopt a child. A court review of such denial may only be  
37 conducted as provided under this paragraph and is not subject to  
38 chapter 120.

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

43 2. A denied applicant or any other party may file a motion  
44 to review the department's denial within 30 days after the date  
45 written notification of the denial was sent to the applicant.

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

50 4. The motion to review under subparagraph 2. must allege

51 that the department unreasonably withheld its consent to the  
52 adoption and must request that the court allow the denied  
53 applicant to file a petition to adopt the child under chapter 63  
54 without the department's consent.

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

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

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

75 (a) There is probable cause to believe that the child is

76 | at imminent risk of abuse or neglect;

77 |       (b) A motion to review the department's denial of  
78 | application filed under paragraph (4) (b) has been denied by the  
79 | court;

80 |       ~~(c) (b)~~ Thirty days have expired following written notice  
81 | to the foster parent or custodian of the denial of the  
82 | application to adopt, within which period no motion to review  
83 | the department's denial has been filed under paragraph (4) (b) ~~no~~  
84 | ~~formal challenge of the department's decision has been filed;~~ or

85 |       ~~(d) (e)~~ The foster parent or custodian agrees to the  
86 | child's removal.

87 |       ~~(6) (5)~~ The petition for adoption must be filed in the  
88 | division of the circuit court which entered the judgment  
89 | terminating parental rights, unless a motion for change of venue  
90 | is granted under ~~pursuant to~~ s. 47.122. A copy of the consent  
91 | executed by the department must be attached to the petition,  
92 | unless such consent is waived under paragraph (4) (b) waived  
93 | ~~pursuant to s. 63.062(7).~~ The petition must be accompanied by a  
94 | statement, signed by the prospective adoptive parents,  
95 | acknowledging receipt of all information required to be  
96 | disclosed under s. 63.085 and a form provided by the department  
97 | which details the social and medical history of the child and  
98 | each parent and includes the social security number and date of  
99 | birth for each parent, if such information is available or  
100 | readily obtainable. The prospective adoptive parents may not

101 file a petition for adoption until the judgment terminating  
102 parental rights becomes final. An adoption proceeding under this  
103 subsection is governed by chapter 63.

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

106 63.062 Persons required to consent to adoption; affidavit  
107 of nonpaternity; waiver of venue.—

108 (7) If parental rights to the minor have previously been  
109 terminated, the adoption entity with which the minor has been  
110 placed for subsequent adoption may provide consent to the  
111 adoption. In such case, no other consent is required. If the  
112 minor has been permanently committed to the department for  
113 subsequent adoption, the department must consent to the adoption  
114 or, in the alternative, the court order finding that the  
115 department unreasonably withheld its consent entered under s.  
116 39.812(4) (b) must be attached to the petition to adopt and ~~The~~  
117 ~~consent of the department shall be waived upon a determination~~  
118 ~~by the court that such consent is being unreasonably withheld~~  
119 ~~and if the petitioner~~ must file ~~has filed~~ with the court a  
120 favorable preliminary adoptive home study as required under s.  
121 63.092.

122 Section 3. This act shall take effect upon becoming a law.