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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Judiciary (Grall) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (6) of section 63.082, Florida  
Statutes, is amended to read:

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

(6) (a) 1. The Legislature finds that there is a compelling  
state interest in ensuring that a child involved in chapter 39



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12 proceedings is served in a way that minimizes his or her trauma,  
13 provides safe placement, maintains continuity of bonded  
14 placements, and achieves permanency as soon as possible.

15 2. The Legislature finds that the use of intervention in  
16 dependency cases for the purpose of adoption has the potential  
17 to be traumatic for a child in the dependency system and that  
18 the disruption of a stable and bonded long-term placement by a  
19 change of placement to a person or family with whom the child  
20 has no bond or connection may create additional trauma.

21 3. The Legislature finds that the right of a parent to  
22 determine an appropriate placement for a child who has been  
23 found dependent is not absolute and must be weighed against  
24 other factors that take the child's safety, well-being, and best  
25 interests into account.

26 4. It is the intent of the Legislature to reduce the  
27 disruption of stable and bonded long-term placements that have  
28 been identified as prospective adoptive placements.

29 (b) If a parent executes a consent for adoption of a child  
30 minor with an adoption entity or qualified prospective adoptive  
31 parents and the minor child is under the supervision of the  
32 department, or otherwise subject to the jurisdiction of the  
33 dependency court as a result of the entry of a shelter order ~~or~~  
34 a dependency petition, ~~or a petition for termination of parental~~  
35 ~~rights pursuant to chapter 39, but parental rights have not yet~~  
36 ~~been terminated,~~ the adoption consent is valid, binding, and  
37 enforceable by the court. A consent to adoption of a child with  
38 an adoption entity or qualified prospective adoptive parents is  
39 not valid if executed during the pendency of a petition for  
40 termination of parental rights pursuant to s. 39.802.



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41            ~~(c)-(b)~~ Upon execution of the consent of the parent, the  
42 adoption entity may file a motion ~~shall be permitted~~ to  
43 intervene and change placement of the child in the dependency  
44 case as a party in interest and must provide the court that  
45 acquired jurisdiction over the child ~~minor~~, pursuant to the  
46 shelter order or dependency petition filed by the department, a  
47 copy of the preliminary home study of the prospective adoptive  
48 parents selected by the parent or adoption entity and any other  
49 evidence of the suitability of the placement. The preliminary  
50 home study must be maintained with strictest confidentiality  
51 within the dependency court file and the department's file. A  
52 preliminary home study must be provided to the court in all  
53 cases in which an adoption entity has been allowed to intervene  
54 ~~intervened~~ pursuant to this section. ~~Unless the court has~~  
55 ~~concerns regarding the qualifications of the home study~~  
56 ~~provider, or concerns that the home study may not be adequate to~~  
57 ~~determine the best interests of the child, the home study~~  
58 ~~provided by the adoption entity shall be deemed to be sufficient~~  
59 ~~and no additional home study needs to be performed by the~~  
60 ~~department.~~

61            ~~(d)1.(e)~~ If an adoption entity files a motion to intervene  
62 and change placement of the child in the dependency case in  
63 accordance with this chapter, the dependency court must ~~shall~~  
64 promptly grant an evidentiary ~~a~~ hearing to determine whether:

65            a. The adoption entity has filed the required documents to  
66 be allowed ~~permitted~~ to intervene;

67            b. The preliminary home study is adequate and provides the  
68 information required to make a best interests determination; and

69            c. The ~~whether~~ a change of placement of the child is in the



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70 best interests of the child.

71 2. Absent good cause or mutual agreement of the parties,  
72 the final hearing on the motion to intervene and change  
73 placement ~~the change of placement~~ of the child must be held  
74 within 30 days after the filing of the motion, and a written  
75 final order shall be filed within 15 days after the hearing.

76 (e) If the child has been in his or her current placement  
77 for at least 9 continuous months or 15 of the last 24 months  
78 immediately preceding the filing of the motion to intervene, and  
79 that placement is a prospective adoptive placement, there is a  
80 rebuttable presumption that the placement is stable and that it  
81 is in the child's best interests to remain in that current  
82 stable placement. The court shall grant party status to the  
83 current caregiver who is a prospective adoptive placement for  
84 the limited purpose of filing motions and presenting evidence  
85 pursuant to this subsection. This limited party status expires  
86 upon the issuance of a final order on the motion to intervene  
87 and change of placement of the child. To rebut the presumption  
88 established in this paragraph, the intervening party must prove  
89 by clear and convincing evidence that it is in the best  
90 interests of the child to disrupt the current stable prospective  
91 adoptive placement using the factors set forth in paragraph (f)  
92 and any other factors that the court deems relevant.

93 ~~(d) If after consideration of all relevant factors,~~  
94 ~~including those set forth in paragraph (e), the court determines~~  
95 ~~that the prospective adoptive parents are properly qualified to~~  
96 ~~adopt the minor child and that the adoption is in the best~~  
97 ~~interests of the minor child, the court shall promptly order the~~  
98 ~~transfer of custody of the minor child to the prospective~~



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99 ~~adoptive parents, under the supervision of the adoption entity.~~  
100 ~~The court may establish reasonable requirements for the transfer~~  
101 ~~of custody in the transfer order, including a reasonable period~~  
102 ~~of time to transition final custody to the prospective adoptive~~  
103 ~~parents. The adoption entity shall thereafter provide monthly~~  
104 ~~supervision reports to the department until finalization of the~~  
105 ~~adoption. If the child has been determined to be dependent by~~  
106 ~~the court, the department shall provide information to the~~  
107 ~~prospective adoptive parents at the time they receive placement~~  
108 ~~of the dependent child regarding approved parent training~~  
109 ~~classes available within the community. The department shall~~  
110 ~~file with the court an acknowledgment of the parent's receipt of~~  
111 ~~the information regarding approved parent training classes~~  
112 ~~available within the community.~~

113 (f)(e) At a hearing to determine ~~In determining whether it~~  
114 is in the best interests of a child to change placement ~~the~~  
115 ~~child are served by transferring the custody of the minor child~~  
116 ~~to the prospective adoptive parents~~ parent ~~selected by the~~  
117 ~~parent or adoption entity, the court shall consider and weigh~~  
118 ~~all relevant factors, including, but not limited to:~~

119 1. The permanency offered by both the child's current  
120 placement and the prospective adoptive placement selected by the  
121 parent or adoption entity;

122 2. The established bond ~~bonded relationship~~ between the  
123 child and the current caregiver with whom the child is residing  
124 if that placement is a prospective adoptive placement ~~in any~~  
125 ~~potential adoptive home in which the child has been residing;~~

126 3. The stability of the prospective adoptive placement  
127 ~~potential adoptive home in which the child has been residing,~~



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128 which must be presumed stable if the placement meets the  
129 requirements of paragraph (e), as well as the desirability of  
130 maintaining continuity of placement;

131 4. The importance of maintaining sibling relationships, if  
132 possible;

133 5. The reasonable preferences and wishes of the child, if  
134 the court deems the child to be of sufficient maturity,  
135 understanding, and experience to express a preference;

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

138 ~~7.~~ What is best for the child; and

139 ~~7.8.~~ The right of the parent to determine an appropriate  
140 placement for the child.

141 (g) If after consideration of all relevant factors,  
142 including those set forth in paragraph (f), the court determines  
143 that the home study is adequate and provides the information  
144 necessary to make the determination that the prospective  
145 adoptive parents are properly qualified to adopt the child and  
146 that the change of placement is in the best interests of the  
147 child, the court must promptly order the change of placement to  
148 the prospective adoptive placement selected by the parent or  
149 adoption entity, under the supervision of the adoption entity,  
150 in accordance with a transition plan developed by the department  
151 in consultation with the current caregivers, the prospective  
152 adoptive parent, and the guardian ad litem, if one is appointed,  
153 to minimize the trauma of removal of the child from his or her  
154 current placement. The adoption entity must thereafter provide  
155 monthly supervision reports to the department until finalization  
156 of the adoption. If the child has been determined to be



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157 dependent by the court, the department must provide information  
158 to the prospective adoptive parents at the time they receive  
159 placement of the dependent child regarding approved parent  
160 training classes available within the community. The department  
161 must file with the court an acknowledgment of the prospective  
162 adoptive parents' receipt of the information regarding approved  
163 parent training classes available within the community.

164 (h) ~~(f)~~ The adoption entity is shall be responsible for  
165 keeping the dependency court informed of the status of the  
166 adoption proceedings at least every 90 days from the date of the  
167 order changing placement of the child until the date of  
168 finalization of the adoption.

169 (i) ~~(g)~~ The parent who is a party to the dependency case  
170 must be provided written notice of his or her right to  
171 participate in a private adoption plan, including written notice  
172 of the factors identified in paragraph (f). This written notice  
173 must be provided with the petition for dependency filed pursuant  
174 to s. 39.501, in the order that adjudicates the child dependent  
175 issued pursuant to s. 39.507, in the order of disposition issued  
176 pursuant to s. 39.521 at the arraignment hearing held pursuant  
177 to s. 39.506, in the order that approves the case plan issued  
178 pursuant to s. 39.603, and in the order that changes the  
179 permanency goal to adoption issued pursuant to s. 39.621, the  
180 court shall provide written notice to the biological parent who  
181 is a party to the case of his or her right to participate in a  
182 private adoption plan including written notice of the factors  
183 provided in paragraph (e).

184 Section 2. Subsection (3) and paragraph (e) of subsection  
185 (4) of section 63.087, Florida Statutes, are amended to read:



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186           63.087 Proceeding to terminate parental rights pending  
187 adoption; general provisions.—

188           (3) PREREQUISITE FOR ADOPTION.—A petition for adoption may  
189 not be filed until after the date the court enters the judgment  
190 terminating parental rights pending adoption. The clerk of the  
191 court shall issue a separate case number and maintain a separate  
192 court file for a petition for adoption. A petition for adoption  
193 may not be maintained in the same court file as the proceeding  
194 to terminate parental rights. Adoptions of relatives, adult  
195 adoptions, or adoptions of stepchildren are not required to file  
196 a separate termination of parental rights proceeding pending  
197 adoption. In such cases, the petitioner may file a joint  
198 petition for termination of parental rights and adoption,  
199 attaching all required consents, affidavits, notices, and  
200 acknowledgments. Unless otherwise provided by law, this chapter  
201 applies to joint petitions.

202           (4) PETITION.—

203           (e) The petition must include:

204           1. The child's ~~minor's~~ name, gender, date of birth, and  
205 place of birth. The petition must contain all names by which the  
206 child ~~minor~~ is or has been known, excluding the child's ~~minor's~~  
207 prospective adoptive name but including the child's ~~minor's~~  
208 legal name at the time of the filing of the petition. ~~In the~~  
209 ~~case of an infant child whose adoptive name appears on the~~  
210 ~~original birth certificate, the adoptive name shall not be~~  
211 ~~included in the petition, nor shall it be included elsewhere in~~  
212 ~~the termination of parental rights proceeding.~~

213           2. All information required by the Uniform Child Custody  
214 Jurisdiction and Enforcement Act and the Indian Child Welfare





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215 Act.

216 3. A statement of the grounds under s. 63.089 upon which  
217 the petition is based.

218 4. The name, address, and telephone number of any adoption  
219 entity seeking to place the child ~~minor~~ for adoption.

220 5. The name, address, and telephone number of the division  
221 of the circuit court in which the petition is to be filed.

222 6. A certification that the petitioner will comply ~~of~~  
223 ~~compliance~~ with the requirements of s. 63.0425 regarding notice  
224 to grandparents of an impending adoption.

225 7. A copy of the original birth certificate of the child,  
226 attached to the petition or filed with the court before the  
227 final hearing on the petition to terminate parental rights.

228 Section 3. Subsection (2) of section 63.122, Florida  
229 Statutes, is amended to read:

230 63.122 Notice of hearing on petition.—

231 (2) Notice of hearing must be given as prescribed by the  
232 Florida Family Law Rules of ~~Civil~~ Procedure, and service of  
233 process must be made as specified by law for civil actions.

234 Section 4. Subsections (1) and (3) of section 63.132,  
235 Florida Statutes, are amended to read:

236 63.132 Affidavit of expenses and receipts.—

237 (1) Before the hearing on the petition for adoption, the  
238 prospective adoptive parents ~~parent~~ and any adoption entity must  
239 file ~~two copies of~~ an affidavit under this section.

240 (a) The affidavit must be signed by the adoption entity and  
241 the prospective adoptive parents. A copy of the affidavit must  
242 be provided to the adoptive parents at the time the affidavit is  
243 executed.



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244 (b) The affidavit must itemize all disbursements and  
245 receipts of anything of value, including professional and legal  
246 fees, made or agreed to be made by or on behalf of the  
247 prospective adoptive parents ~~parent~~ and any adoption entity in  
248 connection with the adoption or in connection with any prior  
249 proceeding to terminate parental rights which involved the child  
250 ~~minor~~ who is the subject of the petition for adoption. The  
251 affidavit must also include, for each hourly legal or counseling  
252 fee itemized, the service provided for which the hourly fee is  
253 being charged, the date the service was provided, the time  
254 required to provide the service if the service was charged by  
255 the hour, the person or entity that provided the service, and  
256 the hourly fee charged.

257 (c) The affidavit must show any expenses or receipts  
258 incurred in connection with:

- 259 1. The birth of the child ~~minor~~.
- 260 2. The placement of the child ~~minor~~ with the petitioner.
- 261 3. The medical or hospital care received by the mother or  
262 by the child ~~minor~~ during the mother's prenatal care and  
263 confinement.
- 264 4. The living expenses of the birth mother. The living  
265 expenses must be itemized in detail to apprise the court of the  
266 exact expenses incurred.
- 267 5. The services relating to the adoption or to the  
268 placement of the child ~~minor~~ for adoption that were received by  
269 or on behalf of the petitioner, the adoption entity, either  
270 parent, the child ~~minor~~, or any other person.

271  
272 The affidavit must state whether any of these expenses were paid



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273 for by collateral sources, including, but not limited to, health  
274 insurance, Medicaid, Medicare, or public assistance.

275 (3) The court must issue a separate order approving or  
276 disapproving the fees, costs, and expenses itemized in the  
277 affidavit. The court may approve only fees, costs, and  
278 expenditures allowed under s. 63.097. The court may reject in  
279 whole or in part any fee, cost, or expenditure listed if the  
280 court finds that the expense is any of the following:

281 (a) Contrary to this chapter.~~†~~

282 (b) Not supported by a receipt, if requested in the record,  
283 if the expense is not a fee of the adoption entity.~~†~~~~or~~

284 (c) Not a reasonable fee or expense, considering the  
285 requirements of this chapter and the totality of the  
286 circumstances.

287 Section 5. Paragraph (c) of subsection (1) of section  
288 63.212, Florida Statutes, is amended to read:

289 63.212 Prohibited acts; penalties for violation.-

290 (1) It is unlawful for any person:

291 (c) To sell or surrender, or to arrange for the sale or  
292 surrender of, a child ~~minor~~ to another person for money or  
293 anything of value or to receive such ~~minor~~ child for such  
294 payment or thing of value. If a child ~~minor~~ is being adopted by  
295 a relative or by a stepparent, or is being adopted through an  
296 adoption entity, this paragraph does not prohibit the person who  
297 is contemplating adopting the child from paying, under ss.  
298 63.097 and 63.132, the actual prenatal care and living expenses  
299 of the mother of the child to be adopted, or from paying, under  
300 ss. 63.097 and 63.132, the actual living and medical expenses of  
301 such mother for a reasonable time, not to exceed 6 weeks,~~if~~



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302 ~~medical needs require such support,~~ after the birth of the child  
303 ~~minor.~~

304 Section 6. (1) On or before July 15, 2023, the Department  
305 of Children and Families shall provide to the Office of Program  
306 Policy Analysis and Government Accountability (OPPAGA) a list of  
307 all child-caring agencies registered under s. 409.176, Florida  
308 Statutes, and all child-placing agencies licensed under s.  
309 63.202, Florida Statutes, and contact information for each such  
310 agency.

311 (2) On or before October 1, 2023, all registered child-  
312 caring agencies and licensed child-placing agencies shall  
313 provide OPPAGA with data as requested by OPPAGA related to  
314 contact information for any intermediary adoption entities the  
315 agency contracts with, fees and compensation for any portion of  
316 adoption interventions the agency has been involved with, and  
317 related costs for adoption interventions initiated under chapter  
318 39, Florida Statutes.

319 (3) By January 1, 2024, OPPAGA shall submit a report to the  
320 President of the Senate and the Speaker of the House of  
321 Representatives which examines the adoption process in this  
322 state. At a minimum, the report must include:

323 (a) An update of OPPAGA Report No. 08-05 from January 2008  
324 and expanded analysis of time to permanency by adoption and  
325 barriers to timely permanency.

326 (b) A general overview and analysis of adoptions under  
327 chapter 63, Florida Statutes, including adoptions of children  
328 outside of the child welfare system.

329 (c) A national comparative analysis of state processes that  
330 allow private adoption entities to intervene or participate in



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331 dependency cases and requirements for such intervention or  
332 participation.

333 (d) A national comparative analysis of statutory fee limits  
334 for adoption services when private adoption entities intervene  
335 in dependency cases, including attorney fees, recruitment fees,  
336 marketing fees, matching fees, and counseling fees.

337 (e) A national comparative analysis of any regulations on  
338 marketing and client recruitment methods or strategies of  
339 private adoption entities in dependency cases.

340 Section 7. This act shall take effect July 1, 2023.

341  
342 ===== T I T L E A M E N D M E N T =====

343 And the title is amended as follows:

344 Delete everything before the enacting clause  
345 and insert:

346 A bill to be entitled  
347 An act relating to adoption; amending s. 63.082, F.S.;  
348 providing legislative findings and intent; specifying  
349 that certain adoption consents are valid, binding, and  
350 enforceable by the court; specifying that a consent to  
351 adoption is not valid during the pendency of a  
352 petition for termination of parental rights;  
353 authorizing the adoption entity to file a specified  
354 motion under certain circumstances; making technical  
355 changes; deleting a provision regarding the  
356 sufficiency of the home study provided by the adoption  
357 entity; requiring that an evidentiary hearing be  
358 granted if a certain motion is filed; specifying the  
359 determinations to be made at such hearing; providing a



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360       rebuttable presumption; requiring the court to grant  
361       party status to the current caregivers under certain  
362       circumstances; providing when such party status  
363       expires; requiring the intervening party to prove  
364       certain factors to rebut a certain presumption;  
365       revising the factors for a best interests  
366       consideration at a certain hearing; requiring the  
367       court to order the transfer of custody of the child to  
368       the adoptive parents under certain circumstances and  
369       in accordance with a certain transition plan;  
370       requiring certain disclosures related to the right to  
371       participate in a private adoption plan; amending s.  
372       63.087, F.S.; requiring the clerk of court to issue a  
373       separate case number for a petition for adoption and  
374       prohibiting such petition from being maintained in a  
375       specified court file; revising requirements for a  
376       petition for adoption; amending s. 63.122, F.S.;

377       requiring that a certain notice of hearing be given as  
378       prescribed in the Florida Family Law Rules of  
379       Procedure; amending s. 63.132, F.S.; making technical  
380       changes; specifying that certain fees are hourly fees;  
381       amending s. 63.212, F.S.; providing that a person  
382       contemplating adoption of a child may make specified  
383       payments to the mother of the child for a specified  
384       period of time regardless of whether the medical needs  
385       of the mother require such support; requiring the  
386       Department of Children and Families to provide a  
387       certain list of child-caring and child-placing  
388       agencies to the Office of Program Policy Analysis and



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389 Government Accountability by a specified date;  
390 requiring certain child-caring and child-placing  
391 agencies to provide certain data to OPPAGA by a  
392 specified date; requiring OPAGGA to submit a specified  
393 report to the Legislature by a specified date;  
394 providing requirements for the report; providing an  
395 effective date.