

By Senator Grall

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1 A bill to be entitled
2 An act relating to adoption of children in dependency
3 court; amending s. 63.082, F.S.; specifying that
4 certain adoption consents are valid, binding, and
5 enforceable by the court; specifying that a consent to
6 adoption is not valid after certain petitions for
7 termination of parental rights have been filed; making
8 technical changes; requiring that the final hearing on
9 a motion to intervene and the change of placement of
10 the child be held by a certain date; deleting a
11 provision regarding the sufficiency of the home study
12 provided by the adoption entity; requiring that an
13 evidentiary hearing be granted if a certain motion to
14 intervene is filed; specifying the determinations to
15 be made at such hearing; providing legislative
16 findings; providing a rebuttable presumption;
17 requiring the court to grant party status to the
18 current caregivers under certain circumstances;
19 providing when such party status expires; specifying
20 the factors for consideration to rebut the rebuttable
21 presumption; requiring the court to order the transfer
22 of custody of the child to the adoptive parents under
23 certain circumstances and in accordance with a certain
24 transition plan; conforming provisions to changes made
25 by the act; requiring the Office of Program Policy
26 Analysis and Government Accountability (OPPAGA) to
27 conduct a certain analysis; requiring the Department
28 of Children and Families to provide a certain list of
29 child-caring and child-placing agencies to OPPAGA by a

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30 certain date; requiring certain child-caring and
31 child-placing agencies to provide certain data to
32 OPPAGA by a certain date; requiring OPPAGA to provide
33 a certain analysis and report to the Legislature by a
34 certain date; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsection (6) of section 63.082, Florida
39 Statutes, is amended to read:

40 63.082 Execution of consent to adoption or affidavit of
41 nonpaternity; family social and medical history; revocation of
42 consent.—

43 (6) (a) If a parent executes a consent for adoption of a
44 child ~~minor~~ with an adoption entity or qualified prospective
45 adoptive parents and the ~~minor~~ child is under the supervision of
46 the department, or otherwise subject to the jurisdiction of the
47 dependency court as a result of the entry of a shelter order, ~~a~~
48 or dependency petition, or a petition for termination of
49 parental rights pursuant to chapter 39, but parental rights have
50 not yet been terminated, the adoption consent is valid, binding,
51 and enforceable by the court. A consent to adoption of a child
52 with an adoption entity or qualified prospective adoptive
53 parents is not valid if executed after the filing of a petition
54 for termination of parental rights pursuant to s. 39.802.

55 (b) Upon execution of the consent of the parent, the
56 adoption entity may petition ~~shall be permitted~~ to intervene in
57 the dependency case as a party of ~~in~~ interest and must provide
58 the court that acquired jurisdiction over the child ~~minor~~,

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59 pursuant to the shelter order or dependency petition filed by
60 the department, a copy of the preliminary home study of the
61 identified prospective adoptive parents and any other evidence
62 of the suitability of the placement. The preliminary home study
63 must be maintained with strictest confidentiality within the
64 dependency court file and the department's file. A preliminary
65 home study must be provided to the court in all cases in which
66 an adoption entity has been allowed to intervene ~~intervened~~
67 pursuant to this section. Absent good cause or mutual agreement
68 of the parties, the final hearing on the motion to intervene and
69 the change of placement of the child must be held within 30 days
70 after the filing of the motion, and a written final order must
71 be filed within 15 days after the hearing ~~Unless the court has~~
72 ~~concerns regarding the qualifications of the home study~~
73 ~~provider, or concerns that the home study may not be adequate to~~
74 ~~determine the best interests of the child, the home study~~
75 ~~provided by the adoption entity shall be deemed to be sufficient~~
76 ~~and no additional home study needs to be performed by the~~
77 ~~department.~~

78 (c) If a motion to intervene and the change of placement of
79 the child by an adoption entity is filed ~~files a motion to~~
80 ~~intervene in the dependency case in accordance with this~~
81 ~~chapter~~, the dependency court must ~~shall~~ promptly grant an
82 evidentiary ~~a~~ hearing to determine whether:

83 1. The adoption entity has filed the required documents to
84 be allowed ~~permitted~~ to intervene; and

85 2. The fee and compensation structure of the adoption
86 entity creates any undue financial incentive for the parent to
87 consent or for the adoption entity to intervene;

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88 3. The preliminary home study is adequate and provides the
89 information required to make a best interests determination; and

90 4. The ~~whether~~ a change of placement of the child to the
91 prospective adoptive family is in the best interests of the
92 child. ~~Absent good cause or mutual agreement of the parties, the~~
93 final hearing on the motion to intervene and the change of
94 placement of the child must be held within 30 days after the
95 filing of the motion, and a written final order shall be filed
96 within 15 days after the hearing.

97 (d)1.a. The Legislature finds that there is a compelling
98 state interest to ensure that a child involved in chapter 39
99 proceedings is served in a way that minimizes his or her trauma,
100 provides safe placement, maintains continuity of bonded
101 placements, and achieves permanency as soon as possible.

102 b. The Legislature finds that the use of intervention into
103 dependency cases for the purpose of adoption has the potential
104 to be traumatic for a child in the dependency system and that
105 the disruption of a stable and bonded long-term placement and
106 the change of placement to a person or family to whom the child
107 has no bond or connection may create additional trauma.

108 c. The Legislature finds that the right of a parent to
109 determine an appropriate placement for a child who has been
110 found dependent is not absolute and must be weighed against
111 other factors that take the child's safety and well-being into
112 account.

113 d. It is the intent of the Legislature to reduce the
114 disruption of stable and bonded long-term placements that have
115 been identified as potential adoptive placements.

116 2. If the child has been in his or her current placement

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117 for at least 9 continuous months or 15 of the last 24 months
118 immediately preceding the filing of the motion to intervene and
119 the change of placement of the child and that placement is a
120 prospective adoptive placement, there is a rebuttable
121 presumption that it is in the child's best interest to remain in
122 his or her current placement. The court shall grant party status
123 to the current caregiver who is a prospective adoptive placement
124 for the limited purpose of filing motions and presenting
125 evidence pursuant to this subsection. This limited party status
126 expires upon the issuance of a final order on the motion to
127 intervene and the change of placement of the child. To rebut the
128 presumption established in this subparagraph, the intervening
129 party must prove by competent and substantial evidence that it
130 is in the best interests of the child to disrupt the current
131 stable prospective adoptive placement using the factors set
132 forth in subparagraph 3. and any other factors the court deems
133 relevant.

134 3. In determining whether changing placement to the
135 prospective adoptive parents selected by the parent or adoption
136 entity is in the best interests of the child, the court shall
137 consider and weigh all relevant factors, including, but not
138 limited to:

139 a. The permanency offered by each placement;

140 b. The established bond between the child and the current
141 caregiver with whom the child is residing if that placement is a
142 potential adoptive home;

143 c. The stability of the current placement if that placement
144 is a potential adoptive home, as well as the desirability of
145 maintaining continuity of that placement;

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146 d. The importance of maintaining sibling relationships, if
147 possible;

148 e. The reasonable preferences and wishes of the child, if
149 the court deems the child to be of sufficient maturity,
150 understanding, and experience to express a preference; and

151 f. The right of the parent to determine an appropriate
152 placement for the child.

153 (e) If after consideration of all relevant factors,
154 including those set forth in subparagraph (d)3. ~~paragraph (e),~~
155 the court determines that the home study is adequate and
156 provides the information necessary to determine that the
157 prospective adoptive parents are properly qualified to adopt the
158 minor child and that the change of placement ~~adoption~~ is in the
159 best interests of the minor child, the court ~~must~~ shall promptly
160 order the transfer of custody of the minor child to the
161 prospective adoptive parents, under the supervision of the
162 adoption entity, in accordance with a transition plan developed
163 by the department in consultation with the caregivers of the
164 current placement and the caregivers of the newly ordered
165 placement to minimize the trauma of removal of the child from
166 his or her current placement. The court may establish reasonable
167 requirements for the transfer of custody in the transfer order,
168 including a reasonable period of time to transition final
169 custody to the prospective adoptive parents. The adoption entity
170 shall thereafter provide monthly supervision reports to the
171 department until finalization of the adoption. If the child has
172 been determined to be dependent by the court, the department
173 must ~~shall~~ provide information to the prospective adoptive
174 parents at the time they receive placement of the dependent

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175 child regarding approved parent training classes available
176 within the community. The department shall file with the court
177 an acknowledgment of the prospective adoptive parents' ~~parent's~~
178 receipt of the information regarding approved parent training
179 classes available within the community.

180 ~~(e) In determining whether the best interests of the child~~
181 ~~are served by transferring the custody of the minor child to the~~
182 ~~prospective adoptive parent selected by the parent or adoption~~
183 ~~entity, the court shall consider and weigh all relevant factors,~~
184 ~~including, but not limited to:~~

185 ~~1. The permanency offered;~~

186 ~~2. The established bonded relationship between the child~~
187 ~~and the current caregiver in any potential adoptive home in~~
188 ~~which the child has been residing;~~

189 ~~3. The stability of the potential adoptive home in which~~
190 ~~the child has been residing as well as the desirability of~~
191 ~~maintaining continuity of placement;~~

192 ~~4. The importance of maintaining sibling relationships, if~~
193 ~~possible;~~

194 ~~5. The reasonable preferences and wishes of the child, if~~
195 ~~the court deems the child to be of sufficient maturity,~~
196 ~~understanding, and experience to express a preference;~~

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

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

200 ~~8. The right of the parent to determine an appropriate~~
201 ~~placement for the child.~~

202 (f) The adoption entity is ~~shall be~~ responsible for keeping
203 the dependency court informed of the status of the adoption

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204 proceedings at least every 90 days from the date of the order
205 changing placement of the child until the date of finalization
206 of the adoption.

207 (g) At the arraignment hearing held pursuant to s. 39.506,
208 in the order that approves the case plan pursuant to s. 39.603,
209 and in the order that changes the permanency goal to adoption
210 pursuant to s. 39.621, the court shall provide written notice to
211 the biological parent who is a party to the case of his or her
212 right to participate in a private adoption plan including
213 written notice of the factors set forth ~~provided~~ in subparagraph
214 (d)3. ~~paragraph (e).~~

215 Section 2. The Office of Program Policy Analysis and
216 Government Accountability (OPPAGA) shall conduct a comparative
217 analysis nationally of the state processes that allow private
218 adoption entities to intervene or participate in dependency
219 cases, including, at a minimum, processes and requirements for
220 intervention or participation of private adoption entities in
221 dependency cases; any statutory fee limits for intervention
222 adoption services, including attorney fees, recruitment fees,
223 marketing fees, matching fees, and counseling fees; and any
224 regulations on marketing and client recruitment methods or
225 strategies. By July 15, 2023, the Department of Children and
226 Families shall provide to OPPAGA a list of all child-caring
227 agencies registered under s. 409.176, Florida Statutes, and all
228 child-placing agencies licensed under s. 63.202, Florida
229 Statutes, and contact information for each such agency. By
230 October 1, 2023, all registered child-caring agencies and
231 licensed child-placing agencies shall provide OPPAGA with data
232 as requested by OPPAGA related to contact information for any

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233 intermediary adoption entities the agency contracts with, fees
234 and compensation for any portion of an intervention adoption the
235 agency has been involved with, and related costs for adoption
236 interventions initiated under chapter 39, Florida Statutes.
237 OPPAGA shall submit the analysis and report to the President of
238 the Senate and the Speaker of the House of Representatives by
239 January 1, 2024.

240 Section 3. This act shall take effect July 1, 2023.