

By the Committee on Judiciary; and Senator Grall

590-03529-23

20231322c1

1 A bill to be entitled
2 An act relating to adoption; amending s. 63.082, F.S.;
3 providing legislative findings and intent; specifying
4 that certain adoption consents are valid, binding, and
5 enforceable by the court; specifying that a consent to
6 adoption is not valid during the pendency of a
7 petition for termination of parental rights;
8 authorizing the adoption entity to file a specified
9 motion under certain circumstances; making technical
10 changes; deleting a provision regarding the
11 sufficiency of the home study provided by the adoption
12 entity; requiring that an evidentiary hearing be
13 granted if a certain motion is filed; specifying the
14 determinations to be made at such hearing; providing a
15 rebuttable presumption; requiring the court to grant
16 party status to the current caregivers under certain
17 circumstances; providing when such party status
18 expires; requiring the intervening party to prove
19 certain factors to rebut a certain presumption;
20 revising the factors for a best interests
21 consideration at a certain hearing; requiring the
22 court to order the transfer of custody of the child to
23 the adoptive parents under certain circumstances and
24 in accordance with a certain transition plan;
25 requiring certain disclosures related to the right to
26 participate in a private adoption plan; amending s.
27 63.087, F.S.; requiring the clerk of court to issue a
28 separate case number for a petition for adoption and
29 prohibiting such petition from being maintained in a

590-03529-23

20231322c1

30 specified court file; revising requirements for a
31 petition for adoption; amending s. 63.122, F.S.;
32 requiring that a certain notice of hearing be given as
33 prescribed in the Florida Family Law Rules of
34 Procedure; amending s. 63.132, F.S.; making technical
35 changes; specifying that certain fees are hourly fees;
36 amending s. 63.212, F.S.; providing that a person
37 contemplating adoption of a child may make specified
38 payments to the mother of the child for a specified
39 period of time regardless of whether the medical needs
40 of the mother require such support; requiring the
41 Department of Children and Families to provide a
42 certain list of child-caring and child-placing
43 agencies to the Office of Program Policy Analysis and
44 Government Accountability by a specified date;
45 requiring certain child-caring and child-placing
46 agencies to provide certain data to OPPAGA by a
47 specified date; requiring OPAGGA to submit a specified
48 report to the Legislature by a specified date;
49 providing requirements for the report; providing an
50 effective date.

51
52 Be It Enacted by the Legislature of the State of Florida:

53
54 Section 1. Subsection (6) of section 63.082, Florida
55 Statutes, is amended to read:

56 63.082 Execution of consent to adoption or affidavit of
57 nonpaternity; family social and medical history; revocation of
58 consent.—

590-03529-23

20231322c1

59 (6) (a) 1. The Legislature finds that there is a compelling
60 state interest in ensuring that a child involved in chapter 39
61 proceedings is served in a way that minimizes his or her trauma,
62 provides safe placement, maintains continuity of bonded
63 placements, and achieves permanency as soon as possible.

64 2. The Legislature finds that the use of intervention in
65 dependency cases for the purpose of adoption has the potential
66 to be traumatic for a child in the dependency system and that
67 the disruption of a stable and bonded long-term placement by a
68 change of placement to a person or family with whom the child
69 has no bond or connection may create additional trauma.

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

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

78 (b) If a parent executes a consent for adoption of a child
79 ~~minor~~ with an adoption entity or qualified prospective adoptive
80 parents and the ~~minor~~ child is under the supervision of the
81 department, or otherwise subject to the jurisdiction of the
82 dependency court as a result of the entry of a shelter order or
83 a dependency petition, ~~or a petition for termination of parental~~
84 rights pursuant to chapter 39, ~~but parental rights have not yet~~
85 been terminated, the adoption consent is valid, binding, and
86 enforceable by the court. A consent to adoption of a child with
87 an adoption entity or qualified prospective adoptive parents is

590-03529-23

20231322c1

88 not valid if executed during the pendency of a petition for
89 termination of parental rights pursuant to s. 39.802.

90 (c)~~(b)~~ Upon execution of the consent of the parent, the
91 adoption entity may file a motion ~~shall be permitted~~ to
92 intervene and change placement of the child in the dependency
93 case as a party in interest and must provide the court that
94 acquired jurisdiction over the child ~~minor~~, pursuant to the
95 shelter order or dependency petition filed by the department, a
96 copy of the preliminary home study of the prospective adoptive
97 parents selected by the parent or adoption entity and any other
98 evidence of the suitability of the placement. The preliminary
99 home study must be maintained with strictest confidentiality
100 within the dependency court file and the department's file. A
101 preliminary home study must be provided to the court in all
102 cases in which an adoption entity has been allowed to intervene
103 ~~intervened~~ pursuant to this section. ~~Unless the court has~~
104 ~~concerns regarding the qualifications of the home study~~
105 ~~provider, or concerns that the home study may not be adequate to~~
106 ~~determine the best interests of the child, the home study~~
107 ~~provided by the adoption entity shall be deemed to be sufficient~~
108 ~~and no additional home study needs to be performed by the~~
109 ~~department.~~

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

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

116 b. The preliminary home study is adequate and provides the

590-03529-23

20231322c1

117 information required to make a best interests determination; and

118 c. The ~~whether~~ a change of placement of the child is in the
119 best interests of the child.

120 2. Absent good cause or mutual agreement of the parties,
121 the final hearing on the motion to intervene and change
122 placement ~~the change of placement~~ of the child must be held
123 within 30 days after the filing of the motion, and a written
124 final order shall be filed within 15 days after the hearing.

125 (e) If the child has been in his or her current placement
126 for at least 9 continuous months or 15 of the last 24 months
127 immediately preceding the filing of the motion to intervene, and
128 that placement is a prospective adoptive placement, there is a
129 rebuttable presumption that the placement is stable and that it
130 is in the child's best interests to remain in that current
131 stable placement. The court shall grant party status to the
132 current caregiver who is a prospective adoptive placement for
133 the limited purpose of filing motions and presenting evidence
134 pursuant to this subsection. This limited party status expires
135 upon the issuance of a final order on the motion to intervene
136 and change of placement of the child. To rebut the presumption
137 established in this paragraph, the intervening party must prove
138 by clear and convincing evidence that it is in the best
139 interests of the child to disrupt the current stable prospective
140 adoptive placement using the factors set forth in paragraph (f)
141 and any other factors that the court deems relevant.

142 ~~(d) If after consideration of all relevant factors,~~
143 ~~including those set forth in paragraph (e), the court determines~~
144 ~~that the prospective adoptive parents are properly qualified to~~
145 ~~adopt the minor child and that the adoption is in the best~~

590-03529-23

20231322c1

146 ~~interests of the minor child, the court shall promptly order the~~
147 ~~transfer of custody of the minor child to the prospective~~
148 ~~adoptive parents, under the supervision of the adoption entity.~~
149 ~~The court may establish reasonable requirements for the transfer~~
150 ~~of custody in the transfer order, including a reasonable period~~
151 ~~of time to transition final custody to the prospective adoptive~~
152 ~~parents. The adoption entity shall thereafter provide monthly~~
153 ~~supervision reports to the department until finalization of the~~
154 ~~adoption. If the child has been determined to be dependent by~~
155 ~~the court, the department shall provide information to the~~
156 ~~prospective adoptive parents at the time they receive placement~~
157 ~~of the dependent child regarding approved parent training~~
158 ~~classes available within the community. The department shall~~
159 ~~file with the court an acknowledgment of the parent's receipt of~~
160 ~~the information regarding approved parent training classes~~
161 ~~available within the community.~~

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

168 1. The permanency offered by both the child's current
169 placement and the prospective adoptive placement selected by the
170 parent or adoption entity;

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

590-03529-23

20231322c1

175 3. The stability of the prospective adoptive placement
176 ~~potential adoptive home~~ in which the child has been residing,
177 which must be presumed stable if the placement meets the
178 requirements of paragraph (e), as well as the desirability of
179 maintaining continuity of placement;

180 4. The importance of maintaining sibling relationships, if
181 possible;

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

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

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

188 7.8. The right of the parent to determine an appropriate
189 placement for the child.

190 (g) If after consideration of all relevant factors,
191 including those set forth in paragraph (f), the court determines
192 that the home study is adequate and provides the information
193 necessary to make the determination that the prospective
194 adoptive parents are properly qualified to adopt the child and
195 that the change of placement is in the best interests of the
196 child, the court must promptly order the change of placement to
197 the prospective adoptive placement selected by the parent or
198 adoption entity, under the supervision of the adoption entity,
199 in accordance with a transition plan developed by the department
200 in consultation with the current caregivers, the prospective
201 adoptive parent, and the guardian ad litem, if one is appointed,
202 to minimize the trauma of removal of the child from his or her
203 current placement. The adoption entity must thereafter provide

590-03529-23

20231322c1

204 monthly supervision reports to the department until finalization
205 of the adoption. If the child has been determined to be
206 dependent by the court, the department must provide information
207 to the prospective adoptive parents at the time they receive
208 placement of the dependent child regarding approved parent
209 training classes available within the community. The department
210 must file with the court an acknowledgment of the prospective
211 adoptive parents' receipt of the information regarding approved
212 parent training classes available within the community.

213 (h)-(f) The adoption entity is ~~shall be~~ responsible for
214 keeping the dependency court informed of the status of the
215 adoption proceedings at least every 90 days from the date of the
216 order changing placement of the child until the date of
217 finalization of the adoption.

218 (i)-(g) The parent who is a party to the dependency case
219 must be provided written notice of his or her right to
220 participate in a private adoption plan, including written notice
221 of the factors identified in paragraph (f). This written notice
222 must be provided with the petition for dependency filed pursuant
223 to s. 39.501, in the order that adjudicates the child dependent
224 issued pursuant to s. 39.507, in the order of disposition issued
225 pursuant to s. 39.521 at the arraignment hearing held pursuant
226 to s. 39.506, in the order that approves the case plan issued
227 pursuant to s. 39.603, and in the order that changes the
228 permanency goal to adoption issued pursuant to s. 39.621, the
229 court shall provide written notice to the biological parent who
230 is a party to the case of his or her right to participate in a
231 private adoption plan including written notice of the factors
232 provided in paragraph (e).

590-03529-23

20231322c1

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

235 63.087 Proceeding to terminate parental rights pending
236 adoption; general provisions.—

237 (3) PREREQUISITE FOR ADOPTION.—A petition for adoption may
238 not be filed until after the date the court enters the judgment
239 terminating parental rights pending adoption. The clerk of the
240 court shall issue a separate case number and maintain a separate
241 court file for a petition for adoption. A petition for adoption
242 may not be maintained in the same court file as the proceeding
243 to terminate parental rights. Adoptions of relatives, adult
244 adoptions, or adoptions of stepchildren are not required to file
245 a separate termination of parental rights proceeding pending
246 adoption. In such cases, the petitioner may file a joint
247 petition for termination of parental rights and adoption,
248 attaching all required consents, affidavits, notices, and
249 acknowledgments. Unless otherwise provided by law, this chapter
250 applies to joint petitions.

251 (4) PETITION.—

252 (e) The petition must include:

253 1. The child's ~~minor's~~ name, gender, date of birth, and
254 place of birth. The petition must contain all names by which the
255 child ~~minor~~ is or has been known, excluding the child's ~~minor's~~
256 prospective adoptive name but including the child's ~~minor's~~
257 legal name at the time of the filing of the petition. ~~In the~~
258 ~~case of an infant child whose adoptive name appears on the~~
259 ~~original birth certificate, the adoptive name shall not be~~
260 ~~included in the petition, nor shall it be included elsewhere in~~
261 ~~the termination of parental rights proceeding.~~

590-03529-23

20231322c1

262 2. All information required by the Uniform Child Custody
263 Jurisdiction and Enforcement Act and the Indian Child Welfare
264 Act.

265 3. A statement of the grounds under s. 63.089 upon which
266 the petition is based.

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

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

271 6. A certification that the petitioner will comply ~~of~~
272 ~~compliance~~ with the requirements of s. 63.0425 regarding notice
273 to grandparents of an impending adoption.

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

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

279 63.122 Notice of hearing on petition.—

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

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

285 63.132 Affidavit of expenses and receipts.—

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

289 (a) The affidavit must be signed by the adoption entity and
290 the prospective adoptive parents. A copy of the affidavit must

590-03529-23

20231322c1

291 be provided to the adoptive parents at the time the affidavit is
292 executed.

293 (b) The affidavit must itemize all disbursements and
294 receipts of anything of value, including professional and legal
295 fees, made or agreed to be made by or on behalf of the
296 prospective adoptive parents ~~parent~~ and any adoption entity in
297 connection with the adoption or in connection with any prior
298 proceeding to terminate parental rights which involved the child
299 ~~minor~~ who is the subject of the petition for adoption. The
300 affidavit must also include, for each hourly legal or counseling
301 fee itemized, the service provided for which the hourly fee is
302 being charged, the date the service was provided, the time
303 required to provide the service if the service was charged by
304 the hour, the person or entity that provided the service, and
305 the hourly fee charged.

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

- 308 1. The birth of the child ~~minor~~.
- 309 2. The placement of the child ~~minor~~ with the petitioner.
- 310 3. The medical or hospital care received by the mother or
311 by the child ~~minor~~ during the mother's prenatal care and
312 confinement.
- 313 4. The living expenses of the birth mother. The living
314 expenses must be itemized in detail to apprise the court of the
315 exact expenses incurred.
- 316 5. The services relating to the adoption or to the
317 placement of the child ~~minor~~ for adoption that were received by
318 or on behalf of the petitioner, the adoption entity, either
319 parent, the child ~~minor~~, or any other person.

590-03529-23

20231322c1

320

321 The affidavit must state whether any of these expenses were paid
322 for by collateral sources, including, but not limited to, health
323 insurance, Medicaid, Medicare, or public assistance.

324 (3) The court must issue a separate order approving or
325 disapproving the fees, costs, and expenses itemized in the
326 affidavit. The court may approve only fees, costs, and
327 expenditures allowed under s. 63.097. The court may reject in
328 whole or in part any fee, cost, or expenditure listed if the
329 court finds that the expense is any of the following:

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

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

333 (c) Not a reasonable fee or expense, considering the
334 requirements of this chapter and the totality of the
335 circumstances.

336 Section 5. Paragraph (c) of subsection (1) of section
337 63.212, Florida Statutes, is amended to read:

338 63.212 Prohibited acts; penalties for violation.—

339 (1) It is unlawful for any person:

340 (c) To sell or surrender, or to arrange for the sale or
341 surrender of, a child ~~minor~~ to another person for money or
342 anything of value or to receive such ~~minor~~ child for such
343 payment or thing of value. If a child ~~minor~~ is being adopted by
344 a relative or by a stepparent, or is being adopted through an
345 adoption entity, this paragraph does not prohibit the person who
346 is contemplating adopting the child from paying, under ss.
347 63.097 and 63.132, the actual prenatal care and living expenses
348 of the mother of the child to be adopted, or from paying, under

590-03529-23

20231322c1

349 ss. 63.097 and 63.132, the actual living and medical expenses of
350 such mother for a reasonable time, not to exceed 6 weeks, ~~if~~
351 ~~medical needs require such support,~~ after the birth of the child
352 ~~minor.~~

353 Section 6. (1) On or before July 15, 2023, the Department
354 of Children and Families shall provide to the Office of Program
355 Policy Analysis and Government Accountability (OPPAGA) a list of
356 all child-caring agencies registered under s. 409.176, Florida
357 Statutes, and all child-placing agencies licensed under s.
358 63.202, Florida Statutes, and contact information for each such
359 agency.

360 (2) On or before October 1, 2023, all registered child-
361 caring agencies and licensed child-placing agencies shall
362 provide OPPAGA with data as requested by OPPAGA related to
363 contact information for any intermediary adoption entities the
364 agency contracts with, fees and compensation for any portion of
365 adoption interventions the agency has been involved with, and
366 related costs for adoption interventions initiated under chapter
367 39, Florida Statutes.

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

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

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

590-03529-23

20231322c1

378 (c) A national comparative analysis of state processes that
379 allow private adoption entities to intervene or participate in
380 dependency cases and requirements for such intervention or
381 participation.

382 (d) A national comparative analysis of statutory fee limits
383 for adoption services when private adoption entities intervene
384 in dependency cases, including attorney fees, recruitment fees,
385 marketing fees, matching fees, and counseling fees.

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

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