

20231322er

1
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 after a certain period during
7 the pendency of a petition for termination of parental
8 rights; authorizing the adoption entity to file a
9 specified motion under certain circumstances; making
10 technical 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 prospective adoptive parents under certain
24 circumstances and in accordance with a certain
25 transition plan; requiring the adoption entity to
26 provide monthly supervision reports for a specified
27 time; requiring the Department of Children and
28 Families to provide certain information to the
29 prospective adoptive parents under certain

20231322er

30 circumstances; requiring the department to file with
31 the court an acknowledgment of receipt of such
32 information; requiring certain disclosures related to
33 the right to participate in a private adoption plan;
34 amending s. 63.087, F.S.; requiring the clerk of court
35 to issue a separate case number for a petition for
36 adoption and prohibiting such petition from being
37 maintained in a specified court file; revising
38 requirements for a petition for adoption; amending s.
39 63.122, F.S.; requiring that a certain notice of
40 hearing be given as prescribed in the Florida Family
41 Law Rules of Procedure; amending s. 63.132, F.S.;
42 making technical changes; specifying that certain fees
43 are hourly fees; amending s. 63.212, F.S.; providing
44 that a person contemplating adoption of a child may
45 make specified payments to the mother of the child for
46 a specified period of time regardless of whether the
47 medical needs of the mother require such support;
48 requiring the department to provide a certain list of
49 child-caring and child-placing agencies to the Office
50 of Program Policy Analysis and Government
51 Accountability by a specified date; requiring certain
52 child-caring and child-placing agencies to provide
53 certain data to the office by a specified date;
54 requiring the office to submit a specified report to
55 the Legislature by a specified date; providing
56 requirements for the report; providing an effective
57 date.
58

20231322er

59 Be It Enacted by the Legislature of the State of Florida:

60

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

63 63.082 Execution of consent to adoption or affidavit of
64 nonpaternity; family social and medical history; revocation of
65 consent.—

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

71 2. The Legislature finds that the use of intervention in
72 dependency cases for the purpose of adoption has the potential
73 to be traumatic for a child in the dependency system and that
74 the disruption of a stable and bonded long-term placement by a
75 change of placement to a person or family with whom the child
76 has no bond or connection may create additional trauma.

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

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

85 (b) If a parent executes a consent for adoption of a child
86 ~~minor~~ with an adoption entity or qualified prospective adoptive
87 parents and the ~~minor~~ child is under the supervision of the

20231322er

88 department, or otherwise subject to the jurisdiction of the
89 dependency court as a result of the entry of a shelter order, a
90 dependency petition, or a petition for termination of parental
91 rights pursuant to chapter 39, ~~but parental rights have not yet~~
92 ~~been terminated~~, the adoption consent is valid, binding, and
93 enforceable by the court. For the purposes of this subsection, a
94 consent to adoption of a child with an adoption entity or
95 qualified prospective adoptive parents is valid if executed
96 during the pendency of the chapter 39 proceeding up to and
97 including the 30th day after the filing of the petition for
98 termination of parental rights pursuant to s. 39.802.

99 (c) ~~(b)~~ Upon execution of the consent of the parent, the
100 adoption entity may file a motion ~~shall be permitted~~ to
101 intervene and change placement of the child in the dependency
102 case as a party in interest and must provide the court that
103 acquired jurisdiction over the child ~~minor~~, pursuant to the
104 shelter order or dependency petition filed by the department, a
105 copy of the preliminary home study of the prospective adoptive
106 parents selected by the parent or adoption entity and any other
107 evidence of the suitability of the placement. The preliminary
108 home study must be maintained with strictest confidentiality
109 within the dependency court file and the department's file. A
110 preliminary home study must be provided to the court in all
111 cases in which an adoption entity has been allowed to intervene
112 ~~intervened~~ pursuant to this section. ~~Unless the court has~~
113 ~~concerns regarding the qualifications of the home study~~
114 ~~provider, or concerns that the home study may not be adequate to~~
115 ~~determine the best interests of the child, the home study~~
116 ~~provided by the adoption entity shall be deemed to be sufficient~~

20231322er

117 ~~and no additional home study needs to be performed by the~~
118 ~~department.~~

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

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

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

127 c. ~~The whether~~ a change of placement of the child is in the
128 best interests of the child.

129 2. Absent good cause or mutual agreement of the parties,
130 the final hearing on the motion to intervene and change
131 placement ~~the change of placement~~ of the child must be held
132 within 30 days after the filing of the motion, and a written
133 final order shall be filed within 15 days after the hearing.

134 (e) If the child has been in his or her current placement
135 for at least 9 continuous months or 15 of the last 24 months
136 immediately preceding the filing of the motion to intervene, and
137 that placement is a prospective adoptive placement, there is a
138 rebuttable presumption that the placement is stable and that it
139 is in the child's best interests to remain in that current
140 stable placement. The court shall grant party status to the
141 current caregiver who is a prospective adoptive placement for
142 the limited purpose of filing motions and presenting evidence
143 pursuant to this subsection. This limited party status expires
144 upon the issuance of a final order on the motion to intervene
145 and change of placement of the child. To rebut the presumption

20231322er

146 established in this paragraph, the intervening party must prove
147 by clear and convincing evidence that it is in the best
148 interests of the child to disrupt the current stable prospective
149 adoptive placement using the factors set forth in paragraph (f)
150 and any other factors that the court deems relevant.

151 ~~(d) If after consideration of all relevant factors,~~
152 ~~including those set forth in paragraph (c), the court determines~~
153 ~~that the prospective adoptive parents are properly qualified to~~
154 ~~adopt the minor child and that the adoption is in the best~~
155 ~~interests of the minor child, the court shall promptly order the~~
156 ~~transfer of custody of the minor child to the prospective~~
157 ~~adoptive parents, under the supervision of the adoption entity.~~
158 ~~The court may establish reasonable requirements for the transfer~~
159 ~~of custody in the transfer order, including a reasonable period~~
160 ~~of time to transition final custody to the prospective adoptive~~
161 ~~parents. The adoption entity shall thereafter provide monthly~~
162 ~~supervision reports to the department until finalization of the~~
163 ~~adoption. If the child has been determined to be dependent by~~
164 ~~the court, the department shall provide information to the~~
165 ~~prospective adoptive parents at the time they receive placement~~
166 ~~of the dependent child regarding approved parent training~~
167 ~~classes available within the community. The department shall~~
168 ~~file with the court an acknowledgment of the parent's receipt of~~
169 ~~the information regarding approved parent training classes~~
170 ~~available within the community.~~

171 (f)(e) At a hearing to determine ~~In determining whether it~~
172 is in the best interests of a child to change placement the
173 ~~child are served by transferring the custody of the minor child~~
174 ~~to the prospective adoptive parents parent selected by the~~

20231322er

175 parent or adoption entity, the court shall consider and weigh
176 all relevant factors, including, but not limited to:

177 1. The permanency offered by both the child's current
178 placement and the prospective adoptive placement selected by the
179 parent or adoption entity;

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

184 3. The stability of the prospective adoptive placement
185 ~~potential adoptive home~~ in which the child has been residing,
186 which must be presumed stable if the placement meets the
187 requirements of paragraph (e), as well as the desirability of
188 maintaining continuity of placement;

189 4. The importance of maintaining sibling relationships, if
190 possible;

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

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

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

197 ~~8. The right of the parent to determine an appropriate~~
198 ~~placement for the child.~~

199 (g)1. If after consideration of all relevant factors,
200 including those set forth in paragraph (f), the court determines
201 that the home study is adequate and provides the information
202 necessary to make a determination that the prospective adoptive
203 parents are properly qualified to adopt the child and that the

20231322er

204 change of placement is in the best interests of the child, the
205 court must order the change of placement to the prospective
206 adoptive placement selected by the parent or adoption entity,
207 under the supervision of the adoption entity.

208 2. The order must allow for a reasonable period of time to
209 transition placement in accordance with a transition plan
210 developed by the department in consultation with the current
211 caregivers, the prospective adoptive parent, and the guardian ad
212 litem, if one is appointed.

213 3. The transition plan must be developed to minimize the
214 trauma of removal from his or her current placement and take the
215 needs of each child into account, including each child's age,
216 relationships, bonds, and preferences.

217 4. The adoption entity must thereafter provide monthly
218 supervision reports to the department until finalization of the
219 adoption. If the child has been determined to be dependent by
220 the court, the department must provide information to the
221 prospective adoptive parents at the time they receive placement
222 of the dependent child regarding approved parent training
223 classes available within the community. The department must file
224 with the court an acknowledgment of the prospective adoptive
225 parents' receipt of the information regarding approved parent
226 training classes available within the community.

227 (h) ~~(f)~~ The adoption entity is shall be responsible for
228 keeping the dependency court informed of the status of the
229 adoption proceedings at least every 90 days from the date of the
230 order changing placement of the child until the date of
231 finalization of the adoption.

232 (i) ~~(g)~~ The parent who is a party to the dependency case

20231322er

233 must be provided written notice of his or her right to
234 participate in a private adoption plan, including written notice
235 of the factors identified in paragraph (f). This written notice
236 must be provided with the petition for dependency filed pursuant
237 to s. 39.501, in the order that adjudicates the child dependent
238 issued pursuant to s. 39.507, in the order of disposition issued
239 pursuant to s. 39.521 ~~at the arraignment hearing held pursuant~~
240 ~~to s. 39.506, in the order that approves the case plan issued~~
241 ~~pursuant to s. 39.603, and in the order that changes the~~
242 ~~permanency goal to adoption issued pursuant to s. 39.621, the~~
243 ~~court shall provide written notice to the biological parent who~~
244 ~~is a party to the case of his or her right to participate in a~~
245 ~~private adoption plan including written notice of the factors~~
246 ~~provided in paragraph (e).~~

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

249 63.087 Proceeding to terminate parental rights pending
250 adoption; general provisions.—

251 (3) PREREQUISITE FOR ADOPTION.—A petition for adoption may
252 not be filed until after the date the court enters the judgment
253 terminating parental rights pending adoption. The clerk of the
254 court shall issue a separate case number and maintain a separate
255 court file for a petition for adoption. A petition for adoption
256 may not be maintained in the same court file as the proceeding
257 to terminate parental rights. Adoptions of relatives, adult
258 adoptions, or adoptions of stepchildren are not required to file
259 a separate termination of parental rights proceeding pending
260 adoption. In such cases, the petitioner may file a joint
261 petition for termination of parental rights and adoption,

20231322er

262 attaching all required consents, affidavits, notices, and
263 acknowledgments. Unless otherwise provided by law, this chapter
264 applies to joint petitions.

265 (4) PETITION.—

266 (e) The petition must include:

267 1. The child's ~~minor's~~ name, gender, date of birth, and
268 place of birth. The petition must contain all names by which the
269 child ~~minor~~ is or has been known, excluding the child's ~~minor's~~
270 prospective adoptive name but including the child's ~~minor's~~
271 legal name at the time of the filing of the petition. ~~In the~~
272 ~~ease of an infant child whose adoptive name appears on the~~
273 ~~original birth certificate, the adoptive name shall not be~~
274 ~~included in the petition, nor shall it be included elsewhere in~~
275 ~~the termination of parental rights proceeding.~~

276 2. All information required by the Uniform Child Custody
277 Jurisdiction and Enforcement Act and the Indian Child Welfare
278 Act.

279 3. A statement of the grounds under s. 63.089 upon which
280 the petition is based.

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

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

285 6. A certification that the petitioner will comply ~~of~~
286 ~~compliance~~ with the requirements of s. 63.0425 regarding notice
287 to grandparents of an impending adoption.

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

20231322er

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

293 63.122 Notice of hearing on petition.—

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

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

299 63.132 Affidavit of expenses and receipts.—

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

303 (a) The affidavit must be signed by the adoption entity and
304 the prospective adoptive parents. A copy of the affidavit must
305 be provided to the adoptive parents at the time the affidavit is
306 executed.

307 (b) The affidavit must itemize all disbursements and
308 receipts of anything of value, including professional and legal
309 fees, made or agreed to be made by or on behalf of the
310 prospective adoptive parents ~~parent~~ and any adoption entity in
311 connection with the adoption or in connection with any prior
312 proceeding to terminate parental rights which involved the child
313 ~~minor~~ who is the subject of the petition for adoption. The
314 affidavit must also include, for each hourly legal or counseling
315 fee itemized, the service provided for which the hourly fee is
316 being charged, the date the service was provided, the time
317 required to provide the service if the service was charged by
318 the hour, the person or entity that provided the service, and
319 the hourly fee charged.

20231322er

- 320 (c) The affidavit must show any expenses or receipts
321 incurred in connection with:
- 322 1. The birth of the child ~~minor~~.
 - 323 2. The placement of the child ~~minor~~ with the petitioner.
 - 324 3. The medical or hospital care received by the mother or
325 by the child ~~minor~~ during the mother's prenatal care and
326 confinement.
 - 327 4. The living expenses of the birth mother. The living
328 expenses must be itemized in detail to apprise the court of the
329 exact expenses incurred.
 - 330 5. The services relating to the adoption or to the
331 placement of the child ~~minor~~ for adoption that were received by
332 or on behalf of the petitioner, the adoption entity, either
333 parent, the child ~~minor~~, or any other person.

334
335 The affidavit must state whether any of these expenses were paid
336 for by collateral sources, including, but not limited to, health
337 insurance, Medicaid, Medicare, or public assistance.

338 (3) The court must issue a separate order approving or
339 disapproving the fees, costs, and expenses itemized in the
340 affidavit. The court may approve only fees, costs, and
341 expenditures allowed under s. 63.097. The court may reject in
342 whole or in part any fee, cost, or expenditure listed if the
343 court finds that the expense is any of the following:

- 344 (a) Contrary to this chapter.~~†~~
- 345 (b) Not supported by a receipt, if requested ~~in the record,~~
346 if the expense is not a fee of the adoption entity.~~†~~ ~~or~~
- 347 (c) Not a reasonable fee or expense, considering the
348 requirements of this chapter and the totality of the

20231322er

349 circumstances.

350 Section 5. Paragraph (c) of subsection (1) of section
351 63.212, Florida Statutes, is amended to read:

352 63.212 Prohibited acts; penalties for violation.—

353 (1) It is unlawful for any person:

354 (c) To sell or surrender, or to arrange for the sale or
355 surrender of, a child ~~minor~~ to another person for money or
356 anything of value or to receive such ~~minor~~ child for such
357 payment or thing of value. If a child ~~minor~~ is being adopted by
358 a relative or by a stepparent, or is being adopted through an
359 adoption entity, this paragraph does not prohibit the person who
360 is contemplating adopting the child from paying, under ss.
361 63.097 and 63.132, the actual prenatal care and living expenses
362 of the mother of the child to be adopted, or from paying, under
363 ss. 63.097 and 63.132, the actual living and medical expenses of
364 such mother for a reasonable time, not to exceed 6 weeks, ~~if~~
365 ~~medical needs require such support,~~ after the birth of the child
366 ~~minor~~.

367 Section 6. (1) On or before July 15, 2023, the Department
368 of Children and Families shall provide to the Office of Program
369 Policy Analysis and Government Accountability (OPPAGA) a list of
370 all child-caring agencies registered under s. 409.176, Florida
371 Statutes, and all child-placing agencies licensed under s.
372 63.202, Florida Statutes, and contact information for each such
373 agency.

374 (2) On or before October 1, 2023, all registered child-
375 caring agencies and licensed child-placing agencies shall
376 provide OPPAGA with data as requested by OPPAGA related to
377 contact information for any intermediary adoption entities the

20231322er

378 agency contracts with, fees and compensation for any portion of
379 adoption interventions the agency has been involved with, and
380 related costs for adoption interventions initiated under chapter
381 39, Florida Statutes.

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

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

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

392 (c) A national comparative analysis of state processes that
393 allow private adoption entities to intervene or participate in
394 dependency cases and requirements for such intervention or
395 participation.

396 (d) A national comparative analysis of statutory fee limits
397 for adoption services when private adoption entities intervene
398 in dependency cases, including attorney fees, recruitment fees,
399 marketing fees, matching fees, and counseling fees.

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

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