

1 A bill to be entitled
2 An act relating to adoption of children in dependency
3 court; amending s. 63.082, F.S.; providing legislative
4 findings and intent; specifying that certain adoption
5 consents are valid, binding, and enforceable by the
6 court; specifying that a consent to adoption is valid
7 for a certain period of time during the pendency of a
8 petition for termination of parental rights;
9 authorizing the adoption entity to file a specified
10 motion under certain circumstances; 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 is
14 filed; specifying the determinations to be made at
15 such hearing; providing a rebuttable presumption;
16 requiring the court to grant party status to the
17 current caregivers under certain circumstances;
18 providing when such party status expires; requiring
19 the intervening party to prove certain factors to
20 rebut a certain presumption; revising the factors for
21 a best interests consideration at a certain hearing;
22 requiring the court to order the transfer of custody
23 of the child to the prospective adoptive placement
24 under certain circumstances; requiring a reasonable
25 period of time to transition placement in accordance

26 | with a certain transition plan; requiring an adoption
27 | entity to provide certain monthly reports to the
28 | department; requiring certain information to be
29 | provided to the prospective adoptive parents;
30 | requiring the department to file a certain
31 | acknowledgment with the court; requiring certain
32 | written notice to be provided to certain parties and
33 | included in certain petitions and orders; conforming
34 | provisions to changes made by the act; amending s.
35 | 63.087, F.S.; requiring the clerk of the court to
36 | issue a separate case number and maintain a separate
37 | court file for a petition for adoption; prohibiting
38 | such petition from being maintained in a specified
39 | court file; revising requirements for a petition for
40 | adoption; amending s. 63.122, F.S.; requiring that a
41 | certain notice of hearing be given as prescribed by
42 | the Florida Family Law Rules of Procedure, rather than
43 | by the Florida Rules of Civil Procedure; amending s.
44 | 63.132, F.S.; requiring certain parents and entities
45 | to file an affidavit; specifying that certain fees are
46 | hourly fees; making technical changes; amending s.
47 | 63.212, F.S.; providing that a person contemplating
48 | adopting a child may make specified payments to the
49 | mother of the child for a specified period of time
50 | regardless of whether the medical needs of the mother

51 require such support; requiring the Department of
 52 Children and Families to provide a certain list of all
 53 child-caring and child-placing agencies to the Office
 54 of Program Policy Analysis and Government
 55 Accountability (OPPAGA) by a specified date; requiring
 56 certain child-caring and child-placing agencies to
 57 provide certain data to OPPAGA on or before a
 58 specified date; requiring OPAGGA to submit a specified
 59 report to the Legislature by a specified date;
 60 providing requirements for the report; providing an
 61 effective date.

62
 63 Be It Enacted by the Legislature of the State of Florida:

64
 65 Section 1. Subsection (6) of section 63.082, Florida
 66 Statutes, is amended to read:

67 63.082 Execution of consent to adoption or affidavit of
 68 nonpaternity; family social and medical history; revocation of
 69 consent.—

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

75 2. The Legislature also finds that the use of intervention

76 in dependency cases for the purpose of adoption has the
77 potential to be traumatic for a child in the dependency system
78 and that the disruption of a stable and bonded long-term
79 placement by a change of placement to a person or family with
80 whom the child has no bond or connection may create additional
81 trauma for the child.

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

87 4. Therefore, it is the intent of the Legislature to
88 reduce the disruption of stable and bonded long-term placements
89 that have been identified as prospective adoptive placements.

90 (b) If a parent executes a consent for adoption of a child
91 ~~minor~~ with an adoption entity or qualified prospective adoptive
92 parents and the ~~minor~~ child is under the supervision of the
93 department, or otherwise subject to the jurisdiction of the
94 dependency court as a result of the entry of a shelter order, a
95 dependency petition, or a petition for termination of parental
96 rights pursuant to chapter 39, ~~but parental rights have not yet~~
97 ~~been terminated,~~ the adoption consent is valid, binding, and
98 enforceable by the court. For purposes of this subsection, a
99 consent to adoption of a child with an adoption entity or
100 qualified prospective adoptive parents is valid if executed

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101 during the pendency of the chapter 39 proceeding up to and
102 including the 30th day after the filing of the petition for
103 termination of parental rights pursuant to s. 39.802.

104 ~~(c)(b)~~ Upon execution of the consent of the parent, the
105 adoption entity may file a motion ~~shall be permitted~~ to
106 intervene and change placement of the child in the dependency
107 case as a party in interest and must provide the court that
108 acquired jurisdiction over the child ~~minor~~, pursuant to the
109 shelter order or dependency petition filed by the department, a
110 copy of the preliminary home study of the prospective adoptive
111 parents selected by the parent or adoption entity and any other
112 evidence of the suitability of the placement. The preliminary
113 home study must be maintained with strictest confidentiality
114 within the dependency court file and the department's file. A
115 preliminary home study must be provided to the court in all
116 cases in which an adoption entity has been allowed to intervene
117 ~~intervened~~ pursuant to this section. ~~Unless the court has~~
118 ~~concerns regarding the qualifications of the home study~~
119 ~~provider, or concerns that the home study may not be adequate to~~
120 ~~determine the best interests of the child, the home study~~
121 ~~provided by the adoption entity shall be deemed to be sufficient~~
122 ~~and no additional home study needs to be performed by the~~
123 ~~department.~~

124 ~~(d)1.(e)~~ If an adoption entity files a motion to intervene
125 and change placement of the child in the dependency case in

126 accordance with this chapter, the dependency court ~~must shall~~
 127 promptly grant an evidentiary ~~a~~ hearing to determine all of the
 128 following:

129 a. If ~~whether~~ the adoption entity has filed the required
 130 documents to be allowed ~~permitted~~ to intervene.

131 b. If the preliminary home study is adequate and provides
 132 the information required to make a best interests determination.

133 c. If ~~and whether~~ a change of placement of the child is in
 134 the best interests of the child.

135 2. Absent good cause or mutual agreement of the parties,
 136 the final hearing on the motion to intervene and change
 137 placement ~~the change of placement~~ of the child must be held
 138 within 30 days after the filing of the motion, and a written
 139 final order shall be filed within 15 days after the hearing.

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

151 rebut the presumption established in this paragraph, the
152 intervening party must prove by clear and convincing evidence
153 that it is in the best interests of the child to disrupt the
154 current stable prospective adoptive placement using the factors
155 set forth in paragraph (f) and any other factors that the court
156 deems relevant.

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

176 ~~regarding approved parent training classes available within the~~
 177 ~~community.~~

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

184 1. The permanency offered by both the child's current
 185 placement and the prospective adoptive placement selected by the
 186 parent or adoption entity.†

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

191 3. The stability of the prospective adoptive placement
 192 ~~potential adoptive home in which the child has been residing,~~
 193 which must be presumed stable if the placement meets the
 194 requirements in paragraph (e), as well as the desirability of
 195 maintaining continuity of placement.†

196 4. The importance of maintaining sibling relationships, if
 197 possible.†

198 5. The reasonable preferences and wishes of the child, if
 199 the court deems the child to be of sufficient maturity,
 200 understanding, and experience to express a preference.†

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

203 7. What is best for the child.~~†~~ and

204 8. ~~The right of the parent to determine an appropriate~~
 205 ~~placement for the child.~~

206 (g)1. If, after consideration of all relevant factors,
 207 including those set forth in paragraph (f), the court determines
 208 that the home study is adequate and provides the information
 209 necessary to make a determination that the prospective adoptive
 210 parents are properly qualified to adopt the child and that the
 211 change of placement is in the best interests of the child, the
 212 court must order the change of placement to the prospective
 213 adoptive placement selected by the parent or adoption entity,
 214 under the supervision of the adoption entity.

215 2. The order must allow a reasonable period of time to
 216 transition placement of the child in accordance with a
 217 transition plan developed by the department in consultation with
 218 the current caregivers, the prospective adoptive parent, and the
 219 guardian ad litem, if one is appointed.

220 3. The transition plan must be developed to minimize the
 221 trauma of removing the child from his or her current placement
 222 and take the needs of each child into account, including the
 223 child's age, relationships, bonds, and preferences.

224 4. The adoption entity must thereafter provide monthly
 225 supervision reports to the department until finalization of the

226 adoption. If the child has been determined to be dependent by
227 the court, the department must provide information to the
228 prospective adoptive parents at the time they receive placement
229 of the dependent child regarding approved parent training
230 classes available within the community. The department must file
231 with the court an acknowledgment of the prospective adoptive
232 parents' receipt of the information regarding approved parent
233 training classes available within the community.

234 (h)~~(f)~~ The adoption entity is ~~shall be~~ responsible for
235 keeping the dependency court informed of the status of the
236 adoption proceedings at least every 90 days after ~~from~~ the date
237 of the order changing placement of the child until the date of
238 finalization of the adoption.

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

251 ~~is a party to the case of his or her right to participate in a~~
 252 ~~private adoption plan including written notice of the factors~~
 253 ~~provided in paragraph (e).~~

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

256 63.087 Proceeding to terminate parental rights pending
 257 adoption; general provisions.—

258 (3) PREREQUISITE FOR ADOPTION.—A petition for adoption may
 259 not be filed until after the date the court enters the judgment
 260 terminating parental rights pending adoption. The clerk of the
 261 court must issue a separate case number and maintain a separate
 262 court file for a petition for adoption. A petition for adoption
 263 may not be maintained in the same court file as the proceeding
 264 to terminate parental rights. Adoptions of relatives, adult
 265 adoptions, or adoptions of stepchildren are not required to file
 266 a separate termination of parental rights proceeding pending
 267 adoption. In such cases, the petitioner may file a joint
 268 petition for termination of parental rights and adoption,
 269 attaching all required consents, affidavits, notices, and
 270 acknowledgments. Unless otherwise provided by law, this chapter
 271 applies to joint petitions.

272 (4) PETITION.—

273 (e) The petition must include:

274 1. The child's ~~minor's~~ name, gender, date of birth, and
 275 place of birth. The petition must contain all names by which the

276 child minor is or has been known, excluding the child's minor's
 277 prospective adoptive name but including the child's minor's
 278 legal name at the time of the filing of the petition. ~~In the~~
 279 ~~ease of an infant child whose adoptive name appears on the~~
 280 ~~original birth certificate, the adoptive name shall not be~~
 281 ~~included in the petition, nor shall it be included elsewhere in~~
 282 ~~the termination of parental rights proceeding.~~

283 2. All information required by the Uniform Child Custody
 284 Jurisdiction and Enforcement Act and the Indian Child Welfare
 285 Act.

286 3. A statement of the grounds under s. 63.089 upon which
 287 the petition is based.

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

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

292 6. A certification that the petitioner will comply ~~of~~
 293 ~~compliance~~ with the requirements of s. 63.0425 regarding notice
 294 to grandparents of an impending adoption.

295 7. A copy of the original birth certificate of the child
 296 attached to the petition or filed with the court before the
 297 final hearing on the petition to terminate parental rights.

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

300 63.122 Notice of hearing on petition.—

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

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

306 63.132 Affidavit of expenses and receipts.—

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

310 (a) The affidavit must be signed by the adoption entity
 311 and the prospective adoptive parents. A copy of the affidavit
 312 must be provided to the adoptive parents at the time the
 313 affidavit is executed.

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

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326 the hourly fee charged.

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

329 1. The birth of the child ~~minor~~.

330 2. The placement of the child ~~minor~~ with the petitioner.

331 3. The medical or hospital care received by the mother or
332 by the child ~~minor~~ during the mother's prenatal care and
333 confinement.

334 4. The living expenses of the birth mother. The living
335 expenses must be itemized in detail to apprise the court of the
336 exact expenses incurred.

337 5. The services relating to the adoption or to the
338 placement of the child ~~minor~~ for adoption that were received by
339 or on behalf of the petitioner, the adoption entity, either
340 parent, the child ~~minor~~, or any other person.

341
342 The affidavit must state whether any of these expenses were paid
343 for by collateral sources, including, but not limited to, health
344 insurance, Medicaid, Medicare, or public assistance.

345 (3) The court must issue a separate order approving or
346 disapproving the fees, costs, and expenses itemized in the
347 affidavit. The court may approve only fees, costs, and
348 expenditures allowed under s. 63.097. The court may reject in
349 whole or in part any fee, cost, or expenditure listed if the
350 court finds that the expense is any of the following:

- 351 (a) Contrary to this chapter.†
- 352 (b) Not supported by a receipt, if requested ~~in the~~
- 353 ~~record~~, if the expense is not a fee of the adoption entity.† ~~or~~
- 354 (c) Not a reasonable fee or expense, considering the
- 355 requirements of this chapter and the totality of the
- 356 circumstances.

357 Section 5. Paragraph (c) of subsection (1) of section
 358 63.212, Florida Statutes, is amended to read:

359 63.212 Prohibited acts; penalties for violation.—

360 (1) It is unlawful for any person:

361 (c) To sell or surrender, or to arrange for the sale or
 362 surrender of, a child ~~minor~~ to another person for money or
 363 anything of value or to receive such ~~minor~~ child for such
 364 payment or thing of value. If a child ~~minor~~ is being adopted by
 365 a relative or by a stepparent, or is being adopted through an
 366 adoption entity, this paragraph does not prohibit the person who
 367 is contemplating adopting the child from paying, under ss.
 368 63.097 and 63.132, the actual prenatal care and living expenses
 369 of the mother of the child to be adopted, or from paying, under
 370 ss. 63.097 and 63.132, the actual living and medical expenses of
 371 such mother for a reasonable time, not to exceed 6 weeks, ~~if~~
 372 ~~medical needs require such support~~, after the birth of the child
 373 ~~minor~~.

374 Section 6. (1) On or before July 15, 2023, the Department
 375 of Children and Families shall provide to the Office of Program

376 Policy Analysis and Government Accountability (OPPAGA) a list of
377 all residential child-caring agencies registered under s.
378 409.176, Florida Statutes, and all child-placing agencies
379 licensed under s. 63.202, Florida Statutes, and the contact
380 information for each such agency.

381 (2) On or before October 1, 2023, all registered child-
382 caring agencies and all licensed child-placing agencies shall
383 provide OPPAGA with data as requested by OPPAGA related to
384 contact information for any intermediary adoption entities with
385 which the agency contracts, any fees and compensation for any
386 portion of adoption interventions in which the agency has been
387 involved, and any related costs for adoption interventions
388 initiated under chapter 39, Florida Statutes.

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

393 (a) An update of OPPAGA Report No. 08-05 from January 2008
394 and an expanded analysis on how long the adoption process takes
395 before a child reaches permanency and any barriers to timely
396 permanency.

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

400 (c) A national comparative analysis of state processes

401 that allow private adoption entities to intervene or participate
402 in dependency cases and requirements for such intervention or
403 participation.

404 (d) A national comparative analysis of statutory fee
405 limits for adoption services when private adoption entities
406 intervene in dependency cases, including attorney fees,
407 recruitment fees, marketing fees, matching fees, and counseling
408 fees.

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

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