

## CHAPTER 2023-257

### Committee Substitute for Committee Substitute for Senate Bill No. 1322

An act relating to adoption; amending s. 63.082, F.S.; providing legislative findings and intent; specifying that certain adoption consents are valid, binding, and enforceable by the court; specifying that a consent to adoption is not valid after a certain period during the pendency of a petition for termination of parental rights; authorizing the adoption entity to file a specified motion under certain circumstances; making technical changes; deleting a provision regarding the sufficiency of the home study provided by the adoption entity; requiring that an evidentiary hearing be granted if a certain motion is filed; specifying the determinations to be made at such hearing; providing a rebuttable presumption; requiring the court to grant party status to the current caregivers under certain circumstances; providing when such party status expires; requiring the intervening party to prove certain factors to rebut a certain presumption; revising the factors for a best interests consideration at a certain hearing; requiring the court to order the transfer of custody of the child to the prospective adoptive parents under certain circumstances and in accordance with a certain transition plan; requiring the adoption entity to provide monthly supervision reports for a specified time; requiring the Department of Children and Families to provide certain information to the prospective adoptive parents under certain circumstances; requiring the department to file with the court an acknowledgment of receipt of such information; requiring certain disclosures related to the right to participate in a private adoption plan; amending s. 63.087, F.S.; requiring the clerk of court to issue a separate case number for a petition for adoption and prohibiting such petition from being maintained in a specified court file; revising requirements for a petition for adoption; amending s. 63.122, F.S.; requiring that a certain notice of hearing be given as prescribed in the Florida Family Law Rules of Procedure; amending s. 63.132, F.S.; making technical changes; specifying that certain fees are hourly fees; amending s. 63.212, F.S.; providing that a person contemplating adoption of a child may make specified payments to the mother of the child for a specified period of time regardless of whether the medical needs of the mother require such support; requiring the department to provide a certain list of child-caring and child-placing agencies to the Office of Program Policy Analysis and Government Accountability by a specified date; requiring certain child-caring and child-placing agencies to provide certain data to the office by a specified date; requiring the office to submit a specified report to the Legislature by a specified date; providing requirements for the report; providing an effective date.

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

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

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

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

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

(b) If a parent executes a consent for adoption of a ~~child minor~~ with an adoption entity or qualified prospective adoptive parents and the ~~minor~~ child is under the supervision of the department, or otherwise subject to the jurisdiction of the dependency court as a result of the entry of a shelter order, a dependency petition, or a petition for termination of parental rights pursuant to chapter 39, ~~but parental rights have not yet been terminated,~~ the adoption consent is valid, binding, and enforceable by the court. For the purposes of this subsection, a consent to adoption of a child with an adoption entity or qualified prospective adoptive parents is valid if executed during the pendency of the chapter 39 proceeding up to and including the 30th day after the filing of the petition for termination of parental rights pursuant to s. 39.802.

(c)(b) Upon execution of the consent of the parent, the adoption entity may file a motion shall be permitted to intervene and change placement of the child in the dependency case as a party in interest and must provide the court that acquired jurisdiction over the ~~child minor~~, pursuant to the shelter order or dependency petition filed by the department, a copy of the preliminary home study of the prospective adoptive parents selected by the parent or adoption entity and any other evidence of the suitability of the placement. The preliminary home study must be maintained with strictest confidentiality within the dependency court file and the department's file. A preliminary home study must be provided to the court in all cases in which

an adoption entity has ~~been allowed to intervene~~ intervened pursuant to this section. Unless the court has concerns regarding the qualifications of the home study provider, or concerns that the home study may not be adequate to determine the best interests of the child, the home study provided by the adoption entity shall be deemed to be sufficient and no additional home study needs to be performed by the department.

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

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

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

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

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

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

~~(d) If after consideration of all relevant factors, including those set forth in paragraph (c), the court determines that the prospective adoptive parents are properly qualified to adopt the minor child and that the adoption is in the best interests of the minor child, the court shall promptly order the transfer of custody of the minor child to the prospective adoptive parents, under the supervision of the adoption entity. The court may establish reasonable requirements for the transfer of custody in the transfer order, including a reasonable period of time to transition final custody to the prospective~~

~~adoptive parents. The adoption entity shall thereafter provide monthly supervision reports to the department until finalization of the adoption. If the child has been determined to be dependent by the court, the department shall provide information to the prospective adoptive parents at the time they receive placement of the dependent child regarding approved parent training classes available within the community. The department shall file with the court an acknowledgment of the parent's receipt of the information regarding approved parent training classes available within the community.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) PREREQUISITE FOR ADOPTION.—A petition for adoption may not be filed until after the date the court enters the judgment terminating parental rights pending adoption. The clerk of the court shall issue a separate case number and maintain a separate court file for a petition for adoption. A petition for adoption may not be maintained in the same court file as the proceeding to terminate parental rights. Adoptions of relatives,

adult adoptions, or adoptions of stepchildren are not required to file a separate termination of parental rights proceeding pending adoption. In such cases, the petitioner may file a joint petition for termination of parental rights and adoption, attaching all required consents, affidavits, notices, and acknowledgments. Unless otherwise provided by law, this chapter applies to joint petitions.

(4) PETITION.—

(e) The petition must include:

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

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

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

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

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

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

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

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

63.122 Notice of hearing on petition.—

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

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

## 63.132 Affidavit of expenses and receipts.—

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

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

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

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

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

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

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

- (a) Contrary to this chapter.;

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

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

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

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

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

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

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

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

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



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

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

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

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

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

Approved by the Governor June 19, 2023.

Filed in Office Secretary of State June 19, 2023.