

1 A bill to be entitled

2 An act relating to adoption; amending s. 39.01, F.S.;
3 redefining the terms "abandoned" or "abandonment" and
4 "parent"; amending s. 63.082, F.S.; revising the
5 circumstances under which an adoption consent is
6 valid, binding, and enforceable; requiring a court to
7 determine, under certain circumstances, whether a
8 change of placement of a child is in the child's best
9 interests, rather than whether the change of placement
10 is appropriate; deleting a determination that a court
11 must consider under certain circumstances; authorizing
12 the court to establish certain requirements for the
13 transfer of custody; providing factors that the court
14 shall consider and weigh under certain circumstances;
15 revising circumstances under which a court must
16 provide written notice to a parent of specified
17 information; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Subsections (1) and (49) of section 39.01,
22 Florida Statutes, are amended to read:

23 39.01 Definitions.—When used in this chapter, unless the
24 context otherwise requires:

25 (1) "Abandoned" or "abandonment" means a situation in
26 which the parent or legal custodian of a child or, in the

27 | absence of a parent or legal custodian, the caregiver, while
28 | being able, has made no significant contribution to the child's
29 | care and maintenance or has failed to establish or maintain a
30 | substantial and positive relationship with the child, or both.
31 | For purposes of this subsection, "establish or maintain a
32 | substantial and positive relationship" includes, but is not
33 | limited to, frequent and regular contact with the child through
34 | frequent and regular visitation or frequent and regular
35 | communication to or with the child, and the exercise of parental
36 | rights and responsibilities. Marginal efforts and incidental or
37 | token visits or communications are not sufficient to establish
38 | or maintain a substantial and positive relationship with a
39 | child. A man's acknowledgement of paternity of the child does
40 | not limit the period of time considered in determining whether
41 | the child was abandoned. The term does not include a surrendered
42 | newborn infant as described in s. 383.50, a "child in need of
43 | services" as defined in chapter 984, or a "family in need of
44 | services" as defined in chapter 984. The incarceration, repeated
45 | incarceration, or extended incarceration of a parent, legal
46 | custodian, or caregiver responsible for a child's welfare may
47 | support a finding of abandonment.

48 | (49) "Parent" means a woman who gives birth to a child and
49 | a man whose consent to the adoption of the child would be
50 | required under s. 63.062(1). If a child has been legally
51 | adopted, the term "parent" means the adoptive mother or father
52 | of the child. ~~The term does not include an individual whose~~

53 ~~parental relationship to the child has been legally terminated,~~
54 ~~or an alleged or prospective parent, unless the parental status~~
55 ~~falls within the terms of s. 39.503(1) or s. 63.062(1).~~ For
56 purposes of this chapter only, when the phrase "parent or legal
57 custodian" is used, it refers to rights or responsibilities of
58 the parent and, only if there is no living parent with intact
59 parental rights, to the rights or responsibilities of the legal
60 custodian who has assumed the role of the parent. The term does
61 not include an individual whose parental relationship to the
62 child has been legally terminated, or an alleged or prospective
63 parent, unless:

64 (a) The parental status falls within the terms of s.
65 39.503(1) or s. 63.062(1); or

66 (b) Parental status is applied for the purpose of
67 determining whether the child has been abandoned.

68 Section 2. Subsection (6) of section 63.082, Florida
69 Statutes, is amended to read:

70 63.082 Execution of consent to adoption or affidavit of
71 nonpaternity; family social and medical history; revocation of
72 consent.—

73 (6) (a) If a parent executes a consent for adoption
74 ~~placement~~ of a minor with an adoption entity or qualified
75 prospective adoptive parents and the minor child is under the
76 supervision in the custody of the department, or otherwise
77 subject to the jurisdiction of the dependency court as a result
78 of the entry of a shelter order, a dependency petition, or a

79 petition for termination of parental rights pursuant to chapter
80 39, but parental rights have not yet been terminated, the
81 adoption consent is valid, binding, and enforceable by the
82 court.

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

101 (c) If an adoption entity files a motion to intervene in
102 the dependency case in accordance with this chapter, the
103 dependency court shall promptly grant a hearing to determine
104 whether the adoption entity has filed the required documents to

105 be permitted to intervene and whether a change of placement of
106 the child is in the best interests of the child ~~appropriate~~.
107 Absent good cause or mutual agreement of the parties, the final
108 hearing on the motion to intervene and the change of placement
109 of the child must be held within 30 days after the filing of the
110 motion and a written final order shall be filed within 15 days
111 after the hearing.

112 (d) If after consideration of all relevant factors,
113 including those set forth in paragraph (e), the court determines
114 ~~Upon a determination by the court~~ that the prospective adoptive
115 parents are properly qualified to adopt the minor child and that
116 the adoption ~~is~~ appears to be in the best interests of the minor
117 child, the court shall promptly ~~immediately~~ order the transfer
118 of custody of the minor child to the prospective adoptive
119 parents, under the supervision of the adoption entity. The court
120 may establish reasonable requirements for the transfer of
121 custody in the transfer order, including a reasonable period of
122 time to transition final custody to the prospective adoptive
123 parents. The adoption entity shall thereafter provide monthly
124 supervision reports to the department until finalization of the
125 adoption. If the child has been determined to be dependent by
126 the court, the department shall provide information to the
127 prospective adoptive parents at the time they receive placement
128 of the dependent child regarding approved parent training
129 classes available within the community. The department shall
130 file with the court an acknowledgment of the parent's receipt of

131 the information regarding approved parent training classes
 132 available within the community.

133 (e) In determining whether the best interests of the child
 134 are served by transferring the custody of the minor child to the
 135 prospective adoptive parent selected by the parent or adoption
 136 entity, the court shall consider and weigh all relevant factors,
 137 including, but not limited to: the rights of the parent to
 138 determine an appropriate placement for the child,

139 1. The permanency offered;

140 2. The established bonded relationship between the child
 141 and the current caregiver in child's bonding with any potential
 142 adoptive home in which that the child has been residing;

143 3. The stability of the potential adoptive home in which
 144 the child has been residing as well as the desirability of
 145 maintaining continuity of placement; in, and

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

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

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

153 7. What is best for the child; and

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

156 (f) The adoption entity shall be responsible for keeping

157 the dependency court informed of the status of the adoption
158 proceedings at least every 90 days from the date of the order
159 changing placement of the child until the date of finalization
160 of the adoption.

161 (g) At the arraignment hearing held pursuant to s. 39.506,
162 in the order that approves the case plan pursuant to s. 39.603,
163 and in the order that changes the permanency goal to adoption
164 pursuant to s. 39.621 ~~In all dependency proceedings, after it is~~
165 ~~determined that reunification is not a viable alternative and~~
166 ~~prior to the filing of a petition for termination of parental~~
167 ~~rights,~~ the court shall provide written notice to advise the
168 biological parent who is a party to the case of his or her ~~the~~
169 right to participate in a private adoption plan, including
170 written notice of the factors provided in paragraph (e).

171 Section 3. This act shall take effect July 1, 2016.