

1                                   A bill to be entitled  
2           An act relating to adoption of children in dependency  
3           court; amending s. 63.082, F.S.; specifying that  
4           certain adoption consents are valid, binding, and  
5           enforceable by the court; specifying that a consent to  
6           adoption is not valid after certain petitions for  
7           termination of parental rights have been filed; making  
8           technical changes; requiring that the final hearing on  
9           a motion to intervene and the change of placement of  
10          the child be held by a certain date; 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 to  
14          intervene is filed; specifying the determinations to  
15          be made at such hearing; providing legislative  
16          findings; providing a rebuttable presumption;  
17          requiring the court to grant party status to the  
18          current caregivers under certain circumstances;  
19          providing when such party status expires; specifying  
20          the factors for consideration to rebut the rebuttable  
21          presumption; requiring the court to order the transfer  
22          of custody of the child to the adoptive parents under  
23          certain circumstances and in accordance with a certain  
24          transition plan; conforming to changes made by the  
25          act; requiring the Office of Program Policy Analysis

26 and Government Accountability (OPPAGA) to conduct a  
 27 certain analysis; requiring the Department of Children  
 28 and Families to provide a certain list of child-caring  
 29 and child-placing agencies to OPPAGA by a certain  
 30 date; requiring certain child-caring and child-placing  
 31 agencies to provide certain data to OPPAGA by a  
 32 certain date; requiring OPPAGA to provide a certain  
 33 analysis and report to the Legislature by a certain  
 34 date; providing an effective date.

35

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

37

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

40 63.082 Execution of consent to adoption or affidavit of  
 41 nonpaternity; family social and medical history; revocation of  
 42 consent.—

43 (6) (a) If a parent executes a consent for adoption of a  
 44 child ~~minor~~ with an adoption entity or qualified prospective  
 45 adoptive parents and the ~~minor~~ child is under the supervision of  
 46 the department, or otherwise subject to the jurisdiction of the  
 47 dependency court as a result of the entry of a shelter order, ~~a~~  
 48 or dependency petition, ~~or a petition for termination of~~  
 49 ~~parental rights pursuant to chapter 39, but parental rights have~~  
 50 ~~not yet been terminated~~, the adoption consent is valid, binding,

51 and enforceable by the court. A consent to adoption of a child  
52 with an adoption entity or qualified prospective adoptive  
53 parents is not valid if executed after the filing of a petition  
54 for termination of parental rights pursuant to s. 39.802.

55 (b) Upon execution of the consent of the parent, the  
56 adoption entity may petition ~~shall be permitted~~ to intervene in  
57 the dependency case as a party of ~~in~~ interest and must provide  
58 the court that acquired jurisdiction over the child ~~minor~~,  
59 pursuant to the shelter order or dependency petition filed by  
60 the department, a copy of the preliminary home study of the  
61 identified prospective adoptive parents and any other evidence  
62 of the suitability of the placement. The preliminary home study  
63 must be maintained with strictest confidentiality within the  
64 dependency court file and the department's file. A preliminary  
65 home study must be provided to the court in all cases in which  
66 an adoption entity has been allowed to intervene ~~intervened~~  
67 pursuant to this section. Absent good cause or mutual agreement  
68 of the parties, the final hearing on the motion to intervene and  
69 the change of placement of the child must be held within 30 days  
70 after the filing of the motion, and a written final order must  
71 be filed within 15 days after the hearing ~~Unless the court has~~  
72 ~~concerns regarding the qualifications of the home study~~  
73 ~~provider, or concerns that the home study may not be adequate to~~  
74 ~~determine the best interests of the child, the home study~~  
75 ~~provided by the adoption entity shall be deemed to be sufficient~~

76 ~~and no additional home study needs to be performed by the~~  
77 ~~department.~~

78 (c) If a motion to intervene and the change of placement  
79 of the child by an adoption entity is filed ~~files a motion to~~  
80 ~~intervene in the dependency case in accordance with this~~  
81 ~~chapter,~~ the dependency court must ~~shall~~ promptly grant an  
82 evidentiary ~~a~~ hearing to determine whether:

83 1. The adoption entity has filed the required documents to  
84 be allowed ~~permitted~~ to intervene; ~~and~~

85 2. The fee and compensation structure of the adoption  
86 entity creates any undue financial incentive for the parent to  
87 consent or for the adoption entity to intervene;

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

90 4. The ~~whether~~ a change of placement of the child to the  
91 prospective adoptive family is in the best interests of the  
92 ~~child. Absent good cause or mutual agreement of the parties, the~~  
93 ~~final hearing on the motion to intervene and the change of~~  
94 ~~placement of the child must be held within 30 days after the~~  
95 ~~filing of the motion, and a written final order shall be filed~~  
96 ~~within 15 days after the hearing.~~

97 (d) 1.a. The Legislature finds that there is a compelling  
98 state interest to ensure that a child involved in chapter 39  
99 proceedings is served in a way that minimizes his or her trauma,  
100 provides safe placement, maintains continuity of bonded

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101 placements, and achieves permanency as soon as possible.

102 b. The Legislature finds that the use of intervention into  
103 dependency cases for the purpose of adoption has the potential  
104 to be traumatic for a child in the dependency system and that  
105 the disruption of a stable and bonded long-term placement and  
106 the change of placement to a person or family to whom the child  
107 has no bond or connection may create additional trauma.

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

113 d. It is the intent of the Legislature to reduce the  
114 disruption of stable and bonded long-term placements that have  
115 been identified as potential adoptive placements.

116 2. If the child has been in his or her current placement  
117 for at least 9 continuous months or 15 of the last 24 months  
118 immediately preceding the filing of the motion to intervene and  
119 the change of placement of the child and that placement is a  
120 prospective adoptive placement, there is a rebuttable  
121 presumption that it is in the child's best interest to remain in  
122 his or her current placement. The court shall grant party status  
123 to the current caregiver who is a prospective adoptive placement  
124 for the limited purpose of filing motions and presenting  
125 evidence pursuant to this subsection. This limited party status

126 expires upon the issuance of a final order on the motion to  
127 intervene and the change of placement of the child. To rebut the  
128 presumption established in this subparagraph, the intervening  
129 party must prove by competent and substantial evidence that it  
130 is in the best interests of the child to disrupt the current  
131 stable prospective adoptive placement using the factors set  
132 forth in subparagraph 3. and any other factors the court deems  
133 relevant.

134 3. In determining whether changing placement to the  
135 prospective adoptive parents selected by the parent or adoption  
136 entity is in the best interests of the child, the court shall  
137 consider and weigh all relevant factors, including, but not  
138 limited to:

139 a. The permanency offered by each placement;

140 b. The established bond between the child and the current  
141 caregiver with whom the child is residing if that placement is a  
142 potential adoptive home;

143 c. The stability of the current placement if that  
144 placement is a potential adoptive home, as well as the  
145 desirability of maintaining continuity of that placement;

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

148 e. 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; and

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151 f. The right of the parent to determine an appropriate  
152 placement for the child.

153 (e) If after consideration of all relevant factors,  
154 including those set forth in subparagraph (d) 3. ~~paragraph (e)~~,  
155 the court determines that the home study is adequate and  
156 provides the information necessary to determine that the  
157 prospective adoptive parents are properly qualified to adopt the  
158 minor child and that the change of placement adoption is in the  
159 best interests of the ~~minor~~ child, the court must ~~shall promptly~~  
160 order the transfer of custody of the ~~minor~~ child to the  
161 prospective adoptive parents, under the supervision of the  
162 adoption entity, in accordance with a transition plan developed  
163 by the department in consultation with the caregivers of the  
164 current placement and the caregivers of the newly ordered  
165 placement to minimize the trauma of removal of the child from  
166 his or her current placement. The court may establish reasonable  
167 requirements for the transfer of custody in the transfer order,  
168 including a reasonable period of time to transition final  
169 custody to the prospective adoptive parents. The adoption entity  
170 shall thereafter provide monthly supervision reports to the  
171 department until finalization of the adoption. If the child has  
172 been determined to be dependent by the court, the department  
173 must ~~shall~~ provide information to the prospective adoptive  
174 parents at the time they receive placement of the dependent  
175 child regarding approved parent training classes available

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176 within the community. The department shall file with the court  
177 an acknowledgment of the prospective adoptive parents' ~~parent's~~  
178 receipt of the information regarding approved parent training  
179 classes available within the community.

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

185 1. ~~The permanency offered;~~

186 2. ~~The established bonded relationship between the child~~  
187 ~~and the current caregiver in any potential adoptive home in~~  
188 ~~which the child has been residing;~~

189 3. ~~The stability of the potential adoptive home in which~~  
190 ~~the child has been residing as well as the desirability of~~  
191 ~~maintaining continuity of placement;~~

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

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

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

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

200 8. ~~The right of the parent to determine an appropriate~~



201 ~~placement for the child.~~

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

207 (g) At the arraignment hearing held pursuant to s. 39.506,  
 208 in the order that approves the case plan pursuant to s. 39.603,  
 209 and in the order that changes the permanency goal to adoption  
 210 pursuant to s. 39.621, the court shall provide written notice to  
 211 the biological parent who is a party to the case of his or her  
 212 right to participate in a private adoption plan including  
 213 written notice of the factors set forth ~~provided~~ in subparagraph  
 214 (d)3. ~~paragraph (e).~~

215 Section 2. The Office of Program Policy Analysis and  
 216 Government Accountability (OPPAGA) shall conduct a comparative  
 217 analysis nationally of the state processes that allow private  
 218 adoption entities to intervene or participate in dependency  
 219 cases, including, at a minimum, processes and requirements for  
 220 intervention or participation of private adoption entities in  
 221 dependency cases; any statutory fee limits for intervention  
 222 adoption services, including attorney fees, recruitment fees,  
 223 marketing fees, matching fees, and counseling fees; and any  
 224 regulations on marketing and client recruitment methods or  
 225 strategies. By July 15, 2023, the Department of Children and

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226 Families shall provide to OPPAGA a list of all child-caring  
227 agencies registered under s. 409.176, Florida Statutes, and all  
228 child-placing agencies licensed under s. 63.202, Florida  
229 Statutes, and contact information for each such agency. By  
230 October 1, 2023, all registered child-caring agencies and  
231 licensed child-placing agencies shall provide OPPAGA with data  
232 as requested by OPPAGA related to contact information for any  
233 intermediary adoption entities the agency contracts with, fees  
234 and compensation for any portion of an intervention adoption the  
235 agency has been involved with, and related costs for adoption  
236 interventions initiated under chapter 39, Florida Statutes.  
237 OPPAGA shall submit the analysis and report to the President of  
238 the Senate and the Speaker of the House of Representatives by  
239 January 1, 2024.

240 Section 3. This act shall take effect July 1, 2023.