

A bill to be entitled

An act relating to adoption; amending s. 63.042, F.S.; providing that a person who is a homosexual is eligible to adopt a child under certain enumerated circumstances; requiring that certain eligibility criteria be met by clear and convincing evidence; providing that a person who is a homosexual is eligible to adopt a child if the child's parents are deceased, the person proposing to adopt the child is the guardian of the child, and certain additional specified conditions have been met; providing that certain provisions of the act apply only with respect to a petition, declaration, or will or codicil that is filed or executed on or after a certain date; providing an effective date.

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

Section 1. Subsection (3) of section 63.042, Florida Statutes, is amended to read:

63.042 Who may be adopted; who may adopt.--

(3) (a) A ~~no~~ person is not eligible to adopt under this section ~~statute may adopt~~ if that person is a homosexual, except as provided in paragraph (b) or paragraph (c).

(b) A person who is a homosexual is eligible to adopt if a court finds, by clear and convincing evidence, that:

1. The child has resided with the person proposing to adopt the child;

28           2. The child recognizes the person proposing to adopt the  
29 child as the child's parent; and

30           3. The best interest of the child will be served by  
31 approving the adoption. In determining the best interest of the  
32 child, the court shall consider whether granting the child  
33 permanency in the home of the person proposing to adopt the  
34 child is more beneficial to the child's developmental and  
35 psychological needs than maintaining the child in temporary  
36 placement.

37           (c) A person who is a homosexual is eligible to adopt if  
38 both parents of the child are deceased and the person proposing  
39 to adopt the child is the guardian of the person of the minor as  
40 a result of:

41           1. A petition that has been filed by the parent or parents  
42 under s. 744.304 that names the person proposing to adopt the  
43 child as the guardian of the person of the minor and that  
44 expresses the intent that the guardian be eligible to adopt the  
45 child;

46           2. A declaration that has been made by both parents or the  
47 last surviving parent that meets the requirements of s.  
48 744.3046, that names the person proposing to adopt the child as  
49 the guardian of the person of the minor, and that expresses the  
50 intent that the guardian be eligible to adopt the child; or

51           3. A designation in the last surviving parent's will that  
52 names the person proposing to adopt the child as the guardian of  
53 the person of the minor and that expresses the intent that the  
54 guardian be eligible to adopt the child.

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56 An expression of intent that the person proposing to adopt the  
57 child be eligible to adopt the child as required under this  
58 paragraph must exist in order for this exception to apply.

59 (d) The exceptions provided in paragraph (c) apply only  
60 to:

61 1. A petition that is filed under s. 744.304 by the parent  
62 or parents of the minor on or after July 1, 2008, that names the  
63 person proposing to adopt the child as the guardian of the  
64 person of the minor and that expresses the intent that the  
65 guardian be eligible to adopt the child;

66 2. A declaration that is filed with the clerk of the court  
67 on or after July 1, 2008, by both parents or the last surviving  
68 parent that meets the requirements of s. 744.3046, that names  
69 the person proposing to adopt the child as the guardian of the  
70 person of the minor, and that expresses the intent that the  
71 guardian be eligible to adopt the child; or

72 3. A will or codicil that is executed on or after July 1,  
73 2008, that names the person proposing to adopt the child as the  
74 guardian of the person of the minor and that expresses the  
75 intent that the guardian be eligible to adopt the child.

76 Section 2. This act shall take effect July 1, 2008.