

1 A bill to be entitled

2 An act relating to adoption proceedings; amending s.  
3 39.812, F.S.; authorizing a court to review the  
4 Department of Children and Families' decision to deny  
5 an application to adopt a child; providing  
6 requirements for the department, a denied applicant,  
7 and the court relating to a motion to review the  
8 department's decision; authorizing the department to  
9 remove a child from a foster home or custodian under  
10 certain circumstances; conforming provisions to  
11 changes made by the act; amending s. 63.062, F.S.;  
12 requiring the department's consent for certain  
13 adoptions or, in the alternative, a specified court  
14 order must be attached to the petition to adopt;  
15 amending s. 63.082, F.S.; providing that a stepparent  
16 or a relative of a minor are not exempted from a  
17 preliminary home study in certain situations;  
18 providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Subsections (5) and (6) of section 39.812,  
23 Florida Statutes, are renumbered as subsections (6) and (7),  
24 respectively, subsection (4) and present subsection (5) of that  
25 section are amended, and a new subsection (5) is added to that

26 section, to read:

27 39.812 Postdisposition relief; petition for adoption.—

28 (4) The court shall retain jurisdiction over any child  
29 placed in the custody of the department until the child is  
30 adopted. After custody of a child for subsequent adoption has  
31 been given to the department, the court has jurisdiction for the  
32 purpose of reviewing the status of the child and the progress  
33 being made toward permanent adoptive placement. As part of this  
34 continuing jurisdiction, the court may:

35 (a) For good cause shown by the guardian ad litem for the  
36 child, ~~the court may~~ review the appropriateness of the adoptive  
37 placement of the child.

38 (b) Review the department's denial of an application to  
39 adopt a child. The department's decision to deny an application  
40 to adopt a child is reviewable only as provided in this section  
41 and is not subject to chapter 120.

42 1. If the department denies an application to adopt, the  
43 written notification of denial provided to the applicant shall  
44 be filed with the court and copies provided to all parties  
45 within 10 business days after the decision.

46 2. A denied applicant or any other party may file a motion  
47 to review the department's denial within 30 days after the  
48 issuance of the department's written notification of the  
49 decision to deny the application.

50 3. A denied applicant has standing under chapter 39 only

51 to file the motion to review in subparagraph 2. and to present  
52 evidence in support of such motion. Such standing is terminated  
53 upon entry of the court's order.

54 4. The motion to review under subparagraph 2. must allege  
55 that the department unreasonably withheld its consent to the  
56 adoption and must request that the court allow the denied  
57 applicant to file a petition to adopt the child under chapter 63  
58 without the department's consent.

59 5. The court shall hold a hearing within 30 days after the  
60 filing of the motion to review. The court may only consider  
61 whether the department's denial of the application was  
62 consistent with its policies and made in an expeditious manner.  
63 The standard of review by the court is whether the department's  
64 denial of the application was an abuse of discretion.

65 6. The court shall enter a written order within 15 days  
66 after the conclusion of the hearing either denying the motion to  
67 review or finding that the department unreasonably withheld its  
68 consent and authorizing the denied applicant to file a petition  
69 to adopt the child under chapter 63 without the department's  
70 consent.

71 (5) When a licensed foster parent or court-ordered  
72 custodian has applied to adopt a child who has resided with the  
73 foster parent or custodian for at least 6 months and who has  
74 previously been permanently committed to the legal custody of  
75 the department and the department does not grant the application

76 | to adopt, the department may not, in the absence of a prior  
 77 | court order authorizing it to do so, remove the child from the  
 78 | foster home or custodian, except when:

79 |       (a) There is probable cause to believe that the child is  
 80 | at imminent risk of abuse or neglect;

81 |       **(b) A motion to review the department's denial of**  
 82 | **application filed under paragraph (4) (b) has been denied by the**  
 83 | **court;**

84 |       **(c)**~~(b)~~ Thirty days have expired following written notice  
 85 | to the foster parent or custodian of the denial of the  
 86 | application to adopt, within which period no motion to review  
 87 | the department's denial has been filed under paragraph (4) (b) no  
 88 | ~~formal challenge of the department's decision has been filed;~~ or

89 |       **(d)**~~(e)~~ The foster parent or custodian agrees to the  
 90 | child's removal.

91 |       **(6)**~~(5)~~ The petition for adoption must be filed in the  
 92 | division of the circuit court which entered the judgment  
 93 | terminating parental rights, unless a motion for change of venue  
 94 | is granted under ~~pursuant to~~ s. 47.122. A copy of the consent  
 95 | executed by the department must be attached to the petition,  
 96 | unless such consent is waived under paragraph (4) (b) ~~waived~~  
 97 | ~~pursuant to s. 63.062(7)~~. The petition must be accompanied by a  
 98 | statement, signed by the prospective adoptive parents,  
 99 | acknowledging receipt of all information required to be  
 100 | disclosed under s. 63.085 and a form provided by the department

101 which details the social and medical history of the child and  
102 each parent and includes the social security number and date of  
103 birth for each parent, if such information is available or  
104 readily obtainable. The prospective adoptive parents may not  
105 file a petition for adoption until the judgment terminating  
106 parental rights becomes final. An adoption proceeding under this  
107 subsection is governed by chapter 63.

108 Section 2. Subsection (7) of section 63.062, Florida  
109 Statutes, is amended to read:

110 63.062 Persons required to consent to adoption; affidavit  
111 of nonpaternity; waiver of venue.—

112 (7) If parental rights to the minor have previously been  
113 terminated, the adoption entity with which the minor has been  
114 placed for subsequent adoption may provide consent to the  
115 adoption. In such case, no other consent is required. If the  
116 minor has been permanently committed to the department for  
117 subsequent adoption, the department must consent to the adoption  
118 or, in the alternative, the court order finding that the  
119 department unreasonably withheld its consent entered under s.  
120 39.812(4)(b) must be attached to the petition to adopt and ~~The~~  
121 ~~consent of the department shall be waived upon a determination~~  
122 ~~by the court that such consent is being unreasonably withheld~~  
123 ~~and if the petitioner~~ must file ~~has filed~~ with the court a  
124 favorable preliminary adoptive home study as required under s.  
125 63.092.

126 Section 3. Paragraph (b) of subsection (6) of section  
127 63.082, Florida Statutes, is amended to read:

128 63.082 Execution of consent to adoption or affidavit of  
129 nonpaternity; family social and medical history; revocation of  
130 consent.—

131 (6)

132 (b) Upon execution of the consent of the parent, the  
133 adoption entity shall be permitted to intervene in the  
134 dependency case as a party in interest and must provide the  
135 court that acquired jurisdiction over the minor, pursuant to the  
136 shelter order or dependency petition filed by the department, a  
137 copy of the preliminary home study of the prospective adoptive  
138 parents and any other evidence of the suitability of the  
139 placement. The preliminary home study must be maintained with  
140 strictest confidentiality within the dependency court file and  
141 the department's file. A preliminary home study must be provided  
142 to the court in all cases in which an adoption entity has  
143 intervened pursuant to this section. The exemption in s.  
144 63.092(3) from the preliminary home study for a stepparent or  
145 relative does not apply if the minor is under the supervision of  
146 the department or is otherwise subject to the jurisdiction of  
147 the dependency court as a result of the filing of a shelter  
148 petition, dependency petition, or termination of parental rights  
149 petition under chapter 39. Unless the court has concerns  
150 regarding the qualifications of the home study provider, or

151 | concerns that the home study may not be adequate to determine  
152 | the best interests of the child, the home study provided by the  
153 | adoption entity shall be deemed to be sufficient and no  
154 | additional home study needs to be performed by the department.

155 |       Section 4. This act shall take effect upon becoming a law.