

Senate Bill 471

By: Senators Harp of the 29th, Hamrick of the 30th, Hill of the 32nd and Ramsey, Sr. of the 43rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to
2 adoption, so as to require a home study by an evaluator prior to the placement of a child into
3 the home of adoptive parents by a third party who is neither a stepparent nor a relative and
4 for such study to recommend placement; to provide for definitions; to change certain
5 provisions relating to surrender or termination of parental or guardian's rights where a child
6 is to be adopted by a third party; to change provisions relating to the filing and contents of
7 a petition for adoption; to change provisions relating to the timing of an adoption hearing,
8 the required records, and filing; to change the contents of the form used for surrender of
9 rights for adoption; to provide for related matters; to provide for an effective date and
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Chapter 8 of Title 19 of the Official Code of Georgia Annotated, relating to adoption, is
14 amended by revising Code Section 19-8-1, relating to definitions, by adding three new
15 paragraphs to read as follows:

16 "(4.1) 'Evaluator' means the person or agency that conducts a home study. An evaluator
17 shall be a licensed child-placing agency, the department, or a licensed professional with
18 at least two years of adoption related professional experience, including a licensed
19 clinical social worker, licensed master social worker, licensed marriage and family
20 therapist, or licensed professional counselor."

21 "(5.1) 'Home study' means an evaluation by an evaluator of the petitioner's home
22 environment for the purpose of determining the suitability of the environment as a
23 prospective adoptive home for a child. Such evaluation shall consider the petitioner's
24 physical health, emotional maturity, financial circumstances, family, and social
25 background and shall conform to the guidelines established by the department's Office of
26 Residential Child Care.

27 (5.2) 'Home study report' means the written report generated as a result of the home
 28 study.'

29 **SECTION 2.**

30 Said chapter is further amended by revising subsection (a) of Code Section 19-8-5, relating
 31 to surrender or termination of parental or guardian's rights where a child is to be adopted by
 32 a third party, as follows:

33 "(a) Except as otherwise authorized in this chapter, a child who has any living parent or
 34 guardian may be adopted by a third party who is neither the stepparent nor relative of that
 35 child, as described in subsection (a) of Code Sections 19-8-6 and 19-8-7, only if each such
 36 living parent and each such guardian has voluntarily and in writing surrendered all of his
 37 or her rights to the such child to that third person party for the purpose of enabling that
 38 person third party to adopt the such child. Except as provided in subsection (m) of this
 39 Code section, no child shall be placed with a third party for purposes of adoption unless
 40 prior to the date of placement a home study shall have been completed, and the home study
 41 report recommends placement in such third party's home."

42 **SECTION 3.**

43 Said chapter is further amended by adding new subsections to Code Section 19-8-5, relating
 44 to surrender or termination of parental or guardian's rights where a child is to be adopted by
 45 a third party, to read as follows:

46 "(m) If the home study for a third-party adoption or for an adoption involving a
 47 preadoptive family having guardianship of a child who is to be adopted has not occurred
 48 prior to the date of placement, then the third party shall, within 30 days of the filing of the
 49 petition for adoption, file a petition with the court seeking an order authorizing placement
 50 of such child prior to the completion of the home study. Such petition shall identify the
 51 evaluator that the petitioner has selected to perform the home study. A copy of each
 52 surrender as provided in subsection (a) of this Code section shall be filed as an exhibit to
 53 the petition filed pursuant to this subsection.

54 (n) The court may grant the petition for placement prior to the completion of a home study
 55 if the court finds by a preponderance of the evidence that such placement is in the best
 56 interest of the child.

57 (o) If the court grants the petition for placement prior to the completion of a home study
 58 and authorizes placement of a child prior to the completion of the home study, then:

59 (1) Such child shall be permitted to remain in the home of the third party with whom the
 60 parent or guardian placed such child pending further order of the court;

61 (2) A copy of the order authorizing placement of such child prior to the completion of
62 the home study shall be delivered to the department and the evaluator selected to perform
63 the home study by the clerk of the court within 15 days of the date of the entry of such
64 order;

65 (3) The home study, if not already in process, shall be initiated by the evaluator selected
66 by the petitioner within ten days of such evaluator's receipt of the court's order;

67 (4) Once initiated, the home study shall be completed within 60 days of initiation, and
68 the evaluator shall cause a copy of the home study report to be filed with the court and
69 shall provide a copy of such report to the petitioner; and

70 (5) A copy of the court order authorizing the placement of such child pursuant to this
71 Code section shall be included with the petition for adoption that is filed with the court.

72 (p) If the court denies the petition for placement prior to the completion of a home study
73 and the petitioner decides not to pursue the adoption of the child and dismisses the action
74 with prejudice, then the court shall commit the child to the custody of the birth parent, a
75 child-placing agency, or the department as specified in the written surrender as provided
76 in subsection (c) of Code Section 19-8-26, or, in the absence of a provision in the written
77 surrender regarding the disposition of the child, in the event the petitioner does not
78 successfully complete the adoption of the child, the court shall commit the child to the
79 custody of a child-placing agency willing to accept the child for placement for adoption or
80 to the department for placement for adoption.

81 (q) If the court denies the petition for placement prior to the completion of a home study
82 and within ten days of the entry of such order the petitioner files a notice with the court
83 indicating that the petitioner desires to pursue the adoption of the child, then the court shall
84 order that:

85 (1) The evaluator selected by the petitioner to perform the home study shall initiate the
86 home study within ten days of such agency's receipt of the court's order;

87 (2) The evaluator shall file the home study report and shall provide a copy of each such
88 report to the petitioner;

89 (3) The evaluator shall complete the home study within 60 days of initiation unless good
90 cause is shown why a longer period for completion of the home study is needed; and

91 (4) The clerk of the court shall serve the department and the evaluator selected to
92 perform the home study with a copy of the order requiring the home study to be
93 conducted within 15 days of the date of the entry of such order.

94 (r) If the evaluator's home study report does not recommend placement of the child for
95 adoption with the petitioner, then the court shall within 30 days of receipt of the home
96 study report hold a hearing to determine whether the court should either permit the
97 placement to continue and permit the petitioner to file a petition for adoption of the child

98 or remove the child from the petitioner's home and commit the child to the custody of the
 99 birth parent, an evaluator, or the department as specified in the written surrender as
 100 provided in subsection (c) of Code Section 19-8-26, or, in the absence of a provision in the
 101 written surrender regarding the disposition of the child, in the event the petitioner does not
 102 successfully complete the adoption of the child, the court shall commit the child to the
 103 custody of an evaluator willing to accept the child for placement for adoption or to the
 104 department for placement for adoption.

105 (s) If the court denies the petition for placement prior to the completion of a home study,
 106 the petitioner may appeal the ruling as provided by law. If the petitioner files an appeal, the
 107 court shall appoint a guardian ad litem for the child who shall represent the best interest of
 108 such child."

109

SECTION 4.

110 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
 111 19-8-13, relating to the filing and content of the petition, as follows:

112 "(3) Where the adoption is pursuant to subsection (a) of Code Section 19-8-5, the
 113 following shall be provided or attached or its absence explained when the petition is filed:

114 (A) The written voluntary surrender of each parent or guardian specified in
 115 subsection (e) of Code Section 19-8-5;

116 (B) The written acknowledgment of surrender specified in subsection (f) of Code
 117 Section 19-8-5;

118 (C) The affidavits specified in subsections (g) and (h) of Code Section 19-8-5;

119 (D) Allegations of compliance with Code Section 19-8-12;

120 (E) Allegations of compliance with Chapter 4 of Title 39, relating to the Interstate
 121 Compact on the Placement of Children;

122 (F) The accounting required by ~~the provisions of~~ subsection (c) of this Code section;

123 (G) Copies of appropriate certificates or forms verifying allegations contained in the
 124 petition as to guardianship of the child ~~sought to be adopted~~, the marriage of each
 125 petitioner, the divorce or death of each parent of the child ~~sought to be adopted~~, and
 126 compliance with Chapter 4 of Title 39, relating to the Interstate Compact on the
 127 Placement of Children; ~~and~~

128 (H) A completed form containing background information regarding the child to be
 129 adopted, as required by the adoption unit of the department; and

130 (I) A copy of the home study report or a copy of the order issued permitting the child
 131 to remain in the petitioner's home pending the completion of the home study."

132 **SECTION 5.**

133 Said chapter is further amended by revising subsections (f), (g), and (h) of Code Section
 134 19-8-14, relating to timing of adoption hearing, required records, and filing, as follows:

135 "(f) The court in the child's best interest may grant such expedited hearings or continuances
 136 as may be necessary for completion of applicable notice requirements, investigations, a
 137 home study, and home study reports or for other good cause shown.

138 (g) Copies of the petition; and all documents filed in connection therewith, including, but
 139 not limited to, the order on the petition for placement prior to the completion of a home
 140 study filed pursuant to subsection (m) of Code Section 19-8-5, the order fixing the date
 141 upon which the petition shall be considered, and all exhibits, surrenders, or certificates
 142 required by this chapter, shall be forwarded by the clerk to the department within 15 days
 143 after the date of the filing of the petition for adoption.

144 (h) Copies of the petition, the order fixing the date upon which the petition shall be
 145 considered, and all exhibits, surrenders, or certificates ~~required by this chapter~~ filed in
 146 support of the petition shall be forwarded by the clerk to the ~~child-placing agency or other~~
 147 ~~agent appointed by the court pursuant to the provisions of Code Section 19-8-16~~ evaluator
 148 that conducted the home study within 15 days after the date of the filing of the petition for
 149 adoption, ~~together with a request that a report and investigation be made as required by~~
 150 ~~law."~~

151 **SECTION 6.**

152 Said chapter is further amended by revising subsection (c) of Code Section 19-8-26, relating
 153 to how surrender of parental rights executed, how and when surrender may be withdrawn,
 154 and forms, as follows:

155 "(c) The surrender of rights by a parent or guardian pursuant to paragraph (1) of subsection
 156 (e) of Code Section 19-8-5 shall conform substantially to the following form:

157 **SURRENDER OF RIGHTS**158 **FINAL RELEASE FOR ADOPTION**159 **NOTICE TO PARENT OR GUARDIAN:**

160 This is an important legal document and by signing it you are surrendering all of your
 161 right, title, and claim to the child identified herein; so as to facilitate the child's placement
 162 for adoption. You are to receive a copy of this document and as explained below have
 163 the right to withdraw your surrender within ten days from the date you sign it.

164

165 I, the undersigned, being solicitous that my (male) (female) child, born (insert name of
 166 child), on (insert birthdate of child), should receive the benefits and advantages of a good
 167 home, to the end that (she) (he) may be fitted for the requirements of life, consent to this
 168 surrender.

169 I, the undersigned, (insert relationship to child) of the aforesaid child, do hereby surrender
 170 the child to (insert name, surname not required, of each person to whom surrender is
 171 made), PROVIDED that each such person is named as petitioner in a petition for
 172 adoption of the child filed in accordance with Article 1 of Chapter 8 of Title 19 of the
 173 Official Code of Georgia Annotated within 60 days from the date hereof. Furthermore,
 174 I promise not to interfere in the management of the child in any respect whatever; and,
 175 in consideration of the benefits guaranteed by (insert name, surname not required, of each
 176 person to whom surrender is made) in thus providing for the child, I do relinquish all
 177 right, title, and claim to the child herein named, it being my wish, intent, and purpose to
 178 relinquish absolutely all parental control over the child.

179 It is also my wish, intent, and purpose that if each such person is not named as petitioner
 180 in a petition for adoption as provided for above within the 60 day period, other than for
 181 excusable neglect, or, if said petition for adoption is filed within 60 days but the adoption
 182 action is dismissed with prejudice or otherwise concluded without an order declaring the
 183 child to be the adopted child of each such person, then I do hereby surrender the child as
 184 follows:

185 (Mark one of the following as chosen)

186 I wish the child returned to me, and I expressly acknowledge that this provision
 187 applies only to the limited circumstance that the child is not adopted by the person or
 188 persons designated herein and further that this provision does not impair the validity,
 189 absolute finality, or totality of this surrender under any circumstance other than the
 190 failure of the designated person or persons to adopt the child and that no other provision
 191 of this surrender impairs the validity, absolute finality, or totality of this surrender once
 192 the revocation period has elapsed; or

193 I surrender the child to (insert name of designated licensed child-placing agency),
 194 a licensed ~~child-placing agency~~ evaluator, for placement for adoption; or

195 I surrender the child to the Department of Human Services, as provided by
 196 subsection (k) of Code Section 19-8-5, for placement for adoption; and (insert name of
 197 designated licensed child-placing agency) or the Department of Human Services may
 198 petition the superior court for custody of the child in accordance with the terms of this
 199 surrender.

200 Furthermore, I hereby agree that the child is to be adopted either by each person named
 201 above or by any other such person as may be chosen by the (insert name of designated

202 licensed child-placing agency) or the Department of Human Services and I do expressly
203 waive any other notice or service in any of the legal proceedings for the adoption of the
204 child.

205 Furthermore, I understand that under Georgia law, unless each person named above
206 secures in a timely manner approval of the court for this placement, a current home study
207 is required to be completed on the home of each person named above prior to the
208 placement of a child with the persons named above, and such home study must
209 recommend placement of a child with the persons named above.

210 Furthermore, I understand that under Georgia law, an agent appointed by the court is
211 required to conduct an investigation and render a report to the court in connection with
212 the legal proceeding for the legal adoption of the child, and I hereby agree to cooperate
213 fully with such agent in the conduct of this investigation.

214 Furthermore, I hereby certify that I have received a copy of this document and that I
215 understand I may only withdraw this surrender by giving written notice, delivered in
216 person or mailed by registered mail or statutory overnight delivery, to (insert name and
217 address of agent of each person to whom surrender is made) within ten days from the date
218 hereof; that the ten days shall be counted consecutively beginning with the day
219 immediately following the date hereof; provided, however, that if the tenth day falls on
220 a Saturday, Sunday, or legal holiday, then the last day on which the surrender may be
221 withdrawn shall be the next day that is not a Saturday, Sunday, or legal holiday; and I
222 understand that it may NOT be withdrawn thereafter.

223 Furthermore, I hereby certify that I have not been subjected to any duress or undue
224 pressure in the execution of this surrender document and do so freely and voluntarily.

225 Witness my hand and seal this _____ day of _____, _____.

226 _____(SEAL)
227 (Parent or guardian)

228 _____

229 Unofficial witness

230 Sworn to and subscribed

231 before me this _____

232 day of _____, _____.

233 _____

234 Notary public (SEAL)

235 My commission expires _____."

236

SECTION 7.

237 This Act shall become effective on July 1, 2010, and shall apply to all petitions for adoption
238 filed on or after that date.

239

SECTION 8.

240 All laws and parts of laws in conflict with this Act are repealed.