

Senate Bill 172

By: Senators Shafer of the 48th, Unterman of the 45th, Albers of the 56th, Ligon, Jr. of the 3rd, Thompson of the 5th and others

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 15 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 that such placement is in the best interest of the child.

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

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

60 (2) A copy of the order authorizing placement of such child prior to the completion of
 61 the home study shall be delivered to the department and the evaluator selected to perform

62 the home study by the clerk of the court within 15 days of the date of the entry of such
 63 order;
 64 (3) The home study, if not already in process, shall be initiated by the evaluator selected
 65 by the petitioner within ten days of such evaluator's receipt of the court's order;
 66 (4) Once initiated, the home study shall be completed within 60 days of initiation, and
 67 the evaluator shall cause a copy of the home study report to be filed with the court and
 68 shall provide a copy of such report to the petitioner; and
 69 (5) A copy of the court order authorizing the placement of such child pursuant to this
 70 Code section shall be included with the petition for adoption that is filed with the court."

71 **SECTION 4.**

72 Said chapter is further amended by revising paragraph (3) of subsection (a) of Code Section
 73 19-8-13, relating to the filing and content of the petition, as follows:

74 "(3) Where the adoption is pursuant to subsection (a) of Code Section 19-8-5, the
 75 following shall be provided or attached or its absence explained when the petition is filed:
 76 (A) The written voluntary surrender of each parent or guardian specified in
 77 subsection (e) of Code Section 19-8-5;
 78 (B) The written acknowledgment of surrender specified in subsection (f) of Code
 79 Section 19-8-5;
 80 (C) The affidavits specified in subsections (g) and (h) of Code Section 19-8-5;
 81 (D) Allegations of compliance with Code Section 19-8-12;
 82 (E) Allegations of compliance with Chapter 4 of Title 39, relating to the Interstate
 83 Compact on the Placement of Children;
 84 (F) The accounting required by ~~the provisions of~~ subsection (c) of this Code section;
 85 (G) Copies of appropriate certificates or forms verifying allegations contained in the
 86 petition as to guardianship of the child ~~sought to be adopted~~, the marriage of each
 87 petitioner, the divorce or death of each parent of the child ~~sought to be adopted~~, and
 88 compliance with Chapter 4 of Title 39, relating to the Interstate Compact on the
 89 Placement of Children; ~~and~~
 90 (H) A completed form containing background information regarding the child to be
 91 adopted, as required by the adoption unit of the department; and
 92 (I) A copy of the home study report or a copy of the order issued permitting the child
 93 to remain in the petitioner's home pending the completion of the home study."

94 **SECTION 5.**

95 Said chapter is further amended by revising subsections (f), (g), and (h) of Code Section
 96 19-8-14, relating to timing of adoption hearing, required records, and filing, as follows:

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

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

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

113 **SECTION 6.**

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

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

119 **SURRENDER OF RIGHTS**
 120 **FINAL RELEASE FOR ADOPTION**
 121 **NOTICE TO PARENT OR GUARDIAN:**

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

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

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

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

147 (Mark one of the following as chosen)

148 ____ I wish the child returned to me, and I expressly acknowledge that this provision
 149 applies only to the limited circumstance that the child is not adopted by the person or
 150 persons designated herein and further that this provision does not impair the validity,
 151 absolute finality, or totality of this surrender under any circumstance other than the
 152 failure of the designated person or persons to adopt the child and that no other provision
 153 of this surrender impairs the validity, absolute finality, or totality of this surrender once
 154 the revocation period has elapsed; or

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

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

162 Furthermore, I hereby agree that the child is to be adopted either by each person named
 163 above or by any other such person as may be chosen by the (insert name of designated
 164 licensed child-placing agency) or the Department of Human Services and I do expressly
 165 waive any other notice or service in any of the legal proceedings for the adoption of the
 166 child.

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

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

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

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

187 Witness my hand and seal this _____ day of _____, ____.

188 _____(SEAL)
 189 (Parent or guardian)

190 _____

191 Unofficial witness

192 Sworn to and subscribed

193 before me this _____

194 day of _____, ____.

195 _____

196 Notary public (SEAL)

197 My commission expires _____."

198 **SECTION 7.**

199 This Act shall become effective on July 1, 2011, and shall apply to all petitions for adoption
 200 filed on or after that date.

201

SECTION 8.

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