

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

AS PASSED SENATE

**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 **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. In counties where none of the foregoing
21 evaluators are available the court may appoint a guardian ad litem or court appointed
22 special advocate to conduct the home study."

23 "(5.1) 'Home study' means an evaluation by an evaluator of the petitioner's home
24 environment for the purpose of determining the suitability of the environment as a
25 prospective adoptive home for a child. Such evaluation shall consider the petitioner's
26 physical health, emotional maturity, financial circumstances, family, and social

27 background and shall conform to the guidelines established by the department's Office
 28 of Residential Child Care for adoption home studies.
 29 (5.2) 'Home study report' means the written report generated as a result of the home
 30 study.'

31 SECTION 2.

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

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

44 SECTION 3.

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

48 "(m) If the home study for a third-party adoption or for an adoption involving a
 49 preadoptive family having guardianship of a child who is to be adopted has not occurred
 50 prior to the date of placement, then the third party shall, within 15 days of the filing of the
 51 petition for adoption, file a motion with the court seeking an order authorizing placement
 52 of such child prior to the completion of the home study. Such motion shall identify the
 53 evaluator that the petitioner has selected to perform the home study. A copy of each
 54 surrender as provided in subsection (a) of this Code section shall be filed as an exhibit to
 55 the petition filed pursuant to this subsection.

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

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

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

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

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

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

70 **SECTION 4.**

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

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

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

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

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

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

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

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

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

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

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

93 **SECTION 5.**

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

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

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

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

112 SECTION 6.

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

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

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

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

125 _____

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

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

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

146 (Mark one of the following as chosen)

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

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

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

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

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

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

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

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

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

187 _____(SEAL)
 188 (Parent or guardian)

189 _____

190 Unofficial witness

191 Sworn to and subscribed

192 before me this _____

193 day of _____, _____.

194 _____

195 Notary public (SEAL)

196 My commission expires _____."

197 **SECTION 7.**

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

200

SECTION 8.

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