

The House Committee on Judiciary offers the following substitute to SB 172:

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 certain provisions relating to the examination of
9 adoption records; to change the contents of the form used for surrender of rights for adoption;
10 to provide for related matters; to provide for an effective date and applicability; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

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

17 "(4.1) 'Evaluator' means the person or agency that conducts a home study. An evaluator
18 shall be a licensed child-placing agency, the department, or a licensed professional with
19 at least two years of adoption related professional experience, including a licensed
20 clinical social worker, licensed master social worker, or licensed professional counselor;
21 provided, however, that 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 rules and regulations established by the department
 28 for child-placing agencies 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 has not occurred prior to the date of
 49 placement, then the third party shall, at the time of the filing of the petition for adoption,
 50 file a motion with the court seeking an order authorizing placement of such child prior to
 51 the completion of the home study. Such motion shall identify the evaluator that the
 52 petitioner has selected to perform the home study. The court may waive the requirement
 53 of a preplacement home study in cases when a child to be adopted already resides in the
 54 prospective adoptive home pursuant to a court order of guardianship, testamentary
 55 guardianship, or custody.

56 (n) The court may grant the motion 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 motion 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; and

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

69 **SECTION 4.**

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

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

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

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

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

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

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

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

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

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

90 (I) A copy of the home study report."

91 **SECTION 5.**

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

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

97 (g) Copies of the petition and all documents filed in connection therewith, including, but
 98 not limited to, the order fixing the date upon which the petition shall be considered, and all
 99 exhibits, surrenders, or certificates required by this chapter, shall be forwarded by the clerk
 100 to the department within 15 days after the date of the filing of the petition for adoption."

101 SECTION 6.

102 Said chapter is further amended by revising subsection (d) of Code Section 19-8-23, relating
 103 to where records of adoption are kept, examination of adoption records by parties and
 104 attorneys, and use of information by agency and department, as follows:

105 "(d)(1) Upon the request of a party at interest in the adoption, a child, legal guardian, or
 106 health care agent of an adopted person or ~~of~~ a provider of medical services to such a
 107 party, child, legal guardian, or health care agent when certain information ~~is necessary~~
 108 ~~because of~~ would assist in the provision of medical care, a medical emergency, or for
 109 medical diagnosis or treatment, the department or child-placing agency ~~may, in its sole~~
 110 ~~discretion,~~ shall access its own records on finalized adoptions for the purpose of adding
 111 subsequently obtained medical information or releasing nonidentifying medical and
 112 health history information contained in its records ~~on such~~ pertaining to an adopted
 113 ~~persons~~ person or the biological parents or relatives of the biological parents of the
 114 adopted person. For purposes of this paragraph, the term 'health care agent' has the
 115 meaning provided by Code Section 31-32-2.

116 (2) Upon receipt by the ~~Office of Adoptions~~ State Adoption Unit of the Division of
 117 Family and Children Services of the department or by a child-placing agency of
 118 documented medical information relevant to an adoptee, the office or child-placing
 119 agency shall use reasonable efforts to contact the adoptive parents of the adoptee if the
 120 adoptee is under 18 years of age or the adoptee if he or she is 18 years of age or older and
 121 provide such documented medical information to the adoptive parents or the adoptee.
 122 The office or child-placing agency shall be entitled to reimbursement of reasonable costs
 123 for postage and photocopying incurred in the delivery of such documented medical
 124 information to the adoptive parents or adoptee."

125 SECTION 7.

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

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

131
132
133

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

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

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

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

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

159 (Mark one of the following as chosen)
160 _____ I wish the child returned to me, and I expressly acknowledge that this provision
161 applies only to the limited circumstance that the child is not adopted by the person or
162 persons designated herein and further that this provision does not impair the validity,
163 absolute finality, or totality of this surrender under any circumstance other than the
164 failure of the designated person or persons to adopt the child and that no other provision
165 of this surrender impairs the validity, absolute finality, or totality of this surrender once
166 the revocation period has elapsed; or

167 _____ I surrender the child to (insert name of designated licensed child-placing agency),
 168 a licensed child-placing agency, for placement for adoption; or
 169 _____ I surrender the child to the Department of Human Services, as provided by
 170 subsection (k) of Code Section 19-8-5, for placement for adoption; and (insert name of
 171 designated licensed child-placing agency) or the Department of Human Services may
 172 petition the superior court for custody of the child in accordance with the terms of this
 173 surrender.

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

179 Furthermore, I understand that under Georgia law an evaluator is required to conduct a
 180 home study and make a recommendation to the court regarding the qualification of each
 181 person named above to adopt a child and to render a postplacement report to the court
 182 concerning the circumstances of placement of my child for adoption. I hereby agree to
 183 cooperate fully with such investigations.

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

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

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

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

200 _____(SEAL)
 201 (Parent or guardian)

202 _____
 203 Unofficial witness
 204 Sworn to and subscribed
 205 before me this _____
 206 day of _____, _____.

207 _____
 208 Notary public (SEAL)
 209 My commission expires _____."

210 **SECTION 8.**

211 This Act shall become effective on July 1, 2011, and shall apply to all placements of children
 212 for adoption and all petitions for adoption filed on or after that date.

213 **SECTION 9.**

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