

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**

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, licensed marriage and family  
21 therapist, or licensed professional counselor; provided, however, that where none of the  
22 foregoing evaluators are available, the court may appoint a guardian ad litem or court  
23 appointed special advocate to conduct the home study."

24 "(5.1) 'Home study' means an evaluation by an evaluator of the petitioner's home  
25 environment for the purpose of determining the suitability of the environment as a  
26 prospective adoptive home for a child. Such evaluation shall consider the petitioner's

27 physical health, emotional maturity, financial circumstances, family, and social  
 28 background and shall conform to the rules and regulations established by the department  
 29 for child-placing agencies for adoption home studies.

30 (5.2) 'Home study report' means the written report generated as a result of the home  
 31 study.'

32 **SECTION 2.**

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

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

45 **SECTION 3.**

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

49 "(m) If the home study for a third-party adoption has not occurred prior to the date of  
 50 placement, then the third party shall, at the time of the filing of the petition for adoption,  
 51 file a motion with the court seeking an order authorizing placement of such child prior to  
 52 the completion of the home study. Such motion shall identify the evaluator that the  
 53 petitioner has selected to perform the home study. The court may waive the requirement  
 54 of a preplacement home study in cases when a child to be adopted already resides in the  
 55 prospective adoptive home pursuant to a court order of guardianship, testamentary  
 56 guardianship, or custody.

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

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

- 61 (1) Such child shall be permitted to remain in the home of the third party with whom the  
 62 parent or guardian placed such child pending further order of the court;  
 63 (2) A copy of the order authorizing placement of such child prior to the completion of  
 64 the home study shall be delivered to the department and the evaluator selected to perform  
 65 the home study by the clerk of the court within 15 days of the date of the entry of such  
 66 order; and  
 67 (3) The home study, if not already in process, shall be initiated by the evaluator selected  
 68 by the petitioner or appointed by the court within ten days of such evaluator's receipt of  
 69 the court's order."

#### 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 or custody of the child ~~sought to be adopted~~, the marriage  
 86 of each petitioner, the divorce or death of each parent of the child ~~sought to be adopted~~,  
 87 and 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."

#### 92 SECTION 5.

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

95 "(f) The court in the child's best interest may grant such expedited hearings or continuances  
 96 as may be necessary for completion of applicable notice requirements, investigations, a  
 97 home study, and reports or for other good cause shown.  
 98 (g) Copies of the petition and all documents filed in connection therewith, including, but  
 99 not limited to, the order fixing the date upon which the petition shall be considered, and all  
 100 exhibits, surrenders, or certificates required by this chapter, shall be forwarded by the clerk  
 101 to the department within 15 days after the date of the filing of the petition for adoption."

## 102 SECTION 6.

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

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

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

## 126 SECTION 7.

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

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

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

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

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

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

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

160 (Mark one of the following as chosen)  
161 \_\_\_\_ I wish the child returned to me, and I expressly acknowledge that this provision  
162 applies only to the limited circumstance that the child is not adopted by the person or  
163 persons designated herein and further that this provision does not impair the validity,  
164 absolute finality, or totality of this surrender under any circumstance other than the

165 failure of the designated person or persons to adopt the child and that no other provision  
 166 of this surrender impairs the validity, absolute finality, or totality of this surrender once  
 167 the revocation period has elapsed; or

168 \_\_\_\_\_ I surrender the child to (insert name of designated licensed child-placing agency),  
 169 a licensed child-placing agency, for placement for adoption; or

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

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

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

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

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

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

200 Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

201 \_\_\_\_\_(SEAL)

202 (Parent or guardian)

203 \_\_\_\_\_

204 Unofficial witness

205 Sworn to and subscribed

206 before me this \_\_\_\_\_

207 day of \_\_\_\_\_, \_\_\_\_\_.

208 \_\_\_\_\_

209 Notary public (SEAL)

210 My commission expires \_\_\_\_\_."

211 **SECTION 8.**

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

214 **SECTION 9.**

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