

# HB101 INTRODUCED



1 IV7IWW-1

2 By Representatives Shaver, Kitchens, Wood (D), Collins,  
3 Almond, Shirey, Crawford, Estes, Gidley, Simpson, Sorrells,  
4 Marques, Lee, Smith, Standridge, Wadsworth, Brown, Ingram,  
5 Mooney, Moore (P), Butler, Lipscomb, Kirkland, Shaw, Givens,  
6 Colvin, Rigsby, Shedd, Woods, Robertson (C), Lomax,  
7 Stadthagen, Sells, Hulsey, DuBose, Wilcox, Lamb, Hill,  
8 Holk-Jones, Hurst, Underwood, Cole, Harrison, Ledbetter,  
9 Reynolds

10 RFD: Children and Senior Advocacy

11 First Read: 07-Mar-23

12



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SYNOPSIS:

Under existing law, the Alabama Adoption Code provides for adoption procedures.

This bill would repeal the Alabama Adoption Code and replace it with the Alabama Minor Adoption Code and the Alabama Adult Adoption Code.

This bill would provide jurisdictional requirements for adoptions and contests to adoptions and allow certain courts handling adoption-related proceedings to communicate with one another.

This bill would require certain individuals to consent to an adoption, provide limitations as to when consent may be withdrawn, and provide for the contest of an adoption in certain situations.

This bill would expand on the confidentiality procedures related to adoptions and adoption records.

This bill would provide further for pre-placement and post-placement investigations of individuals petitioning to adopt a minor and would require reference letters, certain background checks, and other additional records before the adoption of a minor may be finalized.

This bill would clarify procedures for a relative or stepparent to adopt a minor.

This bill would provide for the adoption of an



## HB101 INTRODUCED

29 adult, including who may adopt an adult, the procedures  
30 to adopt an adult, and whose consent is required to  
31 adopt an adult.

32 This bill would provide that an investigation is  
33 not required for the adoption of an adult, unless the  
34 court so orders.

35 Section 111.05 of the Constitution of Alabama of  
36 2022, prohibits a general law whose purpose or effect  
37 would be to require a new or increased expenditure of  
38 local funds from becoming effective with regard to a  
39 local governmental entity without enactment by a 2/3  
40 vote unless: it comes within one of a number of  
41 specified exceptions; it is approved by the affected  
42 entity; or the Legislature appropriates funds, or  
43 provides a local source of revenue, to the entity for  
44 the purpose.

45 The purpose or effect of this bill would be to  
46 require a new or increased expenditure of local funds  
47 within the meaning of the amendment. However, the bill  
48 does not require approval of a local governmental  
49 entity or enactment by a 2/3 vote to become effective  
50 because it comes within one of the specified exceptions  
51 contained in the amendment.

52

53

54

55

56

A BILL

TO BE ENTITLED



## HB101 INTRODUCED

57 AN ACT

58

59 Relating to adoption; to add Chapter 10E and Chapter  
60 10F to Title 26 of the Code of Alabama 1975, and Section  
61 12-15-115.1 to the Code of Alabama 1975; to amend Section  
62 12-15-133 of the Code of Alabama 1975; to repeal Section  
63 12-12-35 of the Code of Alabama 1975, and Chapter 10A of Title  
64 26 of the Code of Alabama 1975; to create the Alabama Minor  
65 Adoption Code and the Alabama Adult Adoption Code; to provide  
66 for jurisdictional and procedural requirements relating to  
67 adoptions; to provide for the communication of certain courts  
68 handling adoption-related proceedings; to provide that certain  
69 individuals must consent to an adoption; to provide for the  
70 confidentiality of certain adoption records; to provide for  
71 investigative requirements for the adoption of a minor; to  
72 provide procedures to adopt an adult; and in connection  
73 therewith would have as its purpose or effect the requirement  
74 of a new or increased expenditure of local funds within the  
75 meaning of Section 111.05 of the Constitution of Alabama of  
76 2022.

77 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

78 Section 1. Chapter 10E is added to Title 26 of the Code  
79 of Alabama 1975, to read as follows:

80 §26-10E-1

81 This chapter shall be known as and may be cited as the  
82 Alabama Minor Adoption Code.

83 §26-10E-2

84 For the purposes of this chapter, the following terms



## HB101 INTRODUCED

85 have the following meanings:

86 (1) ABANDONMENT. Any of the following:

87 a. The voluntary and intentional failure or refusal,  
88 without good cause or excuse, to claim the rights of a parent.

89 b. The voluntary and intentional failure or refusal,  
90 without good cause or excuse, to perform the duties of a  
91 parent.

92 c. The voluntary and intentional relinquishment,  
93 without good cause or excuse, of the custody of a minor by a  
94 parent.

95 d. The voluntary and intentional withholding from the  
96 minor by the parent, without good cause or excuse, of his or  
97 her presence, care, love, protection, support, maintenance, or  
98 display of filial affection.

99 (2) ADOPTEE. The individual being adopted.

100 (3) ADOPTION. The judicial act of creating the legal  
101 relationship of parent and minor which previously did not  
102 legally exist.

103 (4) ADULT. An individual who is 19 years of age or  
104 older, who has reached the majority age in the state in which  
105 he or she resides, or who is otherwise deemed an adult by  
106 statute or by court order.

107 (5) CONSENT. Voluntarily agreeing to adoption.

108 (6) COURT REPRESENTATIVE. An individual appointed in an  
109 adoption proceeding trained in law, health care, counseling,  
110 social work, or other specialty, who is an officer, employee,  
111 or special appointee of the court, and has no personal  
112 interest in the proceeding.



## HB101 INTRODUCED

113 (7) GRANDPARENT. The parent of a parent, whether the  
114 relationship is created biologically or by adoption.

115 (8) LEGAL FATHER. A male individual whose legal status  
116 as the father of the adoptee has been established through  
117 adoption, legitimation, adjudication, acknowledgment,  
118 presumption, or operation of law under the laws of this or any  
119 other state, and whose parental rights have not been  
120 terminated.

121 (9) LEGAL MOTHER. A female individual whose legal  
122 status as the mother of the adoptee has been established  
123 through adoption, legitimation, adjudication, acknowledgment,  
124 presumption, or operation of law under the laws of this or any  
125 other state, and whose parental rights have not been  
126 terminated.

127 (10) LICENSED CHILD PLACING AGENCY. Any adoption agency  
128 that is licensed under the provisions of the Alabama Child  
129 Care Act of 1971, Chapter 7 of Title 38, Code of Alabama 1975,  
130 or any adoption agency approved by the State Department of  
131 Human Resources.

132 (11) MARRIED COUPLE. Two individuals who are currently  
133 lawfully married in accordance with the laws of this state or  
134 any other jurisdiction.

135 (12) MINOR. An individual 18 years of age or younger or  
136 an individual who is not an adult under the law in the  
137 jurisdiction where he or she resides.

138 (13) MINOR PARENT. An individual 18 years of age or  
139 younger or an individual who is not an adult under the law in  
140 the jurisdiction where he or she resides who is the biological



## HB101 INTRODUCED

141 or legal parent of the adoptee.

142 (14) PARENT. The biological or legal mother or father  
143 of the adopted minor.

144 (15) PARTY. Any individual who appears before the court  
145 for the purposes of petitioning for adoption, consenting to an  
146 adoption, withdrawing a consent to adoption, contesting an  
147 adoption, securing grandparent visitation rights to an  
148 adoptee, or setting aside all or part of a final judgment of  
149 adoption, or any other person deemed to be a party by the  
150 court. This term does not include the adoptee.

151 (16) PUTATIVE FATHER. The alleged or reputed biological  
152 father of the adoptee, unless the issue of paternity has been  
153 resolved adversely to that individual by final judgment of a  
154 court of competent jurisdiction.

155 (17) RELINQUISHMENT. Giving up the legal and physical  
156 custody of a minor to a licensed child placing agency or the  
157 Department of Human Resources for the sole purpose of  
158 placement for adoption.

159 (18) SPOUSE. The individual who is lawfully married to  
160 the petitioner or the legal father or the legal mother at the  
161 time of the adoption proceedings.

162 (19) STEPPARENT. An individual who is the spouse or  
163 surviving spouse of a legal mother or legal father of a minor,  
164 but who is not a legal parent of the minor and who is not a  
165 former spouse by reason of divorce or annulment of the  
166 marriage.

167 §26-10E-3

168 (a) The probate court shall have original jurisdiction



## HB101 INTRODUCED

169 over cases brought pursuant to this chapter. No other court of  
170 this state shall have jurisdiction over a case brought under  
171 this chapter unless the case, or part of the case, has been  
172 transferred from the probate court to the other court in  
173 accordance with this section.

174 (b) If any parent whose consent is required fails to  
175 consent or is unable to consent to the adoption of a minor,  
176 upon a motion of a party, the case shall be transferred from  
177 the probate court to the appropriate juvenile court for the  
178 limited purpose of considering the termination of the parental  
179 rights of the non-consenting parent. Upon entry of a final  
180 judgment adjudicating the claim for termination of parental  
181 rights, the juvenile court shall return the case to the  
182 probate court for further dispositional proceedings. The  
183 dispositional proceedings shall be stayed pending any appeal  
184 of the final judgment of the juvenile court.

185 (c) If, at any time during the pendency of a case under  
186 this chapter concerning the adoption of a minor, an action is  
187 pending in a circuit court or a juvenile court of this state  
188 concerning the custody or parentage of the minor, any party to  
189 the case, or the probate court on its own motion, may move to  
190 stay the case or to transfer the case to the circuit court or  
191 the juvenile court in which the other action is pending. Upon  
192 transfer, the transferee court shall have jurisdiction to  
193 decide all matters relating to the adoption and to enter a  
194 final judgment resolving the adoption case. After entry of the  
195 final judgment by the transferee court, the probate court  
196 shall have limited jurisdiction over the case to assure





## HB101 INTRODUCED

197 compliance with Sections 26-10E-30 and 26-10E-31.

198 (d) On motion of either party or of the probate court,  
199 a contest of an adoption under Section 26-10E-23 that is  
200 pending in a probate court shall be transferred to the  
201 juvenile court for the limited purpose of adjudicating the  
202 contest. After entry of a final judgment adjudicating the  
203 contest, the juvenile court shall return the case to the  
204 probate court for further dispositional proceedings, which  
205 dispositional proceedings shall be stayed pending any appeal  
206 of the final judgment.

207 (e) The provisions of this chapter shall remain  
208 applicable to any case transferred to a juvenile court or a  
209 circuit court pursuant to this section.

210 (f) Once an adoption proceeding in the juvenile court  
211 has been completed, a copy of all the juvenile court records,  
212 including filings and documents originally sent by the probate  
213 court upon transfer to the juvenile court shall be forwarded  
214 to the original probate court. All other filings and documents  
215 that are retained by the juvenile court pertaining to the  
216 adoption proceeding shall be sealed, kept as a permanent  
217 record of the court, and withheld from inspection except as  
218 otherwise ordered by the court for good cause shown.

219 (g) Notwithstanding any law regarding the  
220 confidentiality of records and court proceedings involving a  
221 minor or adoptee, a court may communicate with another court  
222 another state, or another country in the same manner as  
223 provided in Section 30-3B-110, and a court may share records  
224 with another court of this state, another state, or another



## HB101 INTRODUCED

225 country for the limited purposes of determining any  
226 jurisdictional issues regarding a case involving the adoption  
227 of an adoptee pursuant to this chapter.

228 §26-10E-3.1

229 Jurisdiction over a child custody case involving an  
230 adoptee is governed by the Uniform Child Custody Jurisdiction  
231 and Enforcement Act, commencing with Section 30-3B-101.

232 §26-10E-4

233 (a) A petition for adoption may be filed in the probate  
234 court in any of the following counties:

235 (1) The county in which the adoptee is born, resides,  
236 or has a legal domicile.

237 (2) The county in which a petitioner resides or is in  
238 military service.

239 (3) The county in which an office of any agency or  
240 institution operating under the laws of this state having  
241 guardianship or custody of an adoptee is located.

242 (b) Notwithstanding subsection (a), a petition for  
243 adoption may be filed in the probate court in another county  
244 if any of the following apply:

245 (1) The petitioner shows good cause on the record as to  
246 why the probate court selected should exercise venue over the  
247 adoption case.

248 (2) No party objects to the probate court selected  
249 within 30 days of service of the petition.

250 (3) The probate court selected determines in writing  
251 that it is in the best interests of the adoptee for the  
252 probate court to exercise venue over the adoption case.



## HB101 INTRODUCED

253 §26-10E-5

254 (a) An unmarried individual or a married couple may  
255 petition to adopt a minor.

256 (b) An unmarried couple may not adopt a minor.

257 (c) A group of more than two persons may not adopt a  
258 minor.

259 (d) If a petitioner is married, the petition for  
260 adoption shall be filed jointly by both spouses; provided,  
261 however, that when the minor is a stepchild of the party  
262 seeking to adopt, the petition shall be filed in the name of  
263 the stepparent alone.

264 (e) Each petitioner seeking to adopt a minor must be  
265 all of the following:

266 (1) An adult.

267 (2) At least 10 years older than the adoptee, unless  
268 either of the following are true:

269 a. The petitioner is a stepparent or relative and files  
270 for adoption pursuant to Sections 26-10E-27 or 26-10E-28.

271 b. The probate court finds, based on evidence in the  
272 record, that the adoption is in the best interests of the  
273 adoptee.

274 (3) A bona fide resident of this state at the filing of  
275 the petition for adoption or a bona fide resident of the  
276 receiving state when the adoptee was born in this state and  
277 was placed in compliance with Sections 38-7-15 and 44-2-20  
278 relating to the Interstate Compact on the Placement of  
279 Children.

280 (f) No rule or regulation of any state department shall



## HB101 INTRODUCED

281 prevent an adoption by a petitioner solely because the  
282 petitioner is employed outside the home. The Department of  
283 Human Resources may require the petitioner to remain in the  
284 home with an adoptee for a reasonable period of time, not to  
285 exceed 60 calendar days, when the department determines that  
286 the adoptee requires the presence of the petitioner to ensure  
287 his or her adjustment.

288 (g) No rule or regulation of any state department shall  
289 prevent an adoption by an unmarried petitioner solely because  
290 the petitioner is unmarried. No rule or regulation of any  
291 state department shall prevent an adoption solely because the  
292 petitioner is of a certain age, except as provided in  
293 subsection (e).

294 §26-10E-6

295 Any minor who is available for adoption may be adopted  
296 under this chapter.

297 §26-10E-7

298 (a) Consent to the petitioner's adoption or  
299 relinquishment for adoption to the Department of Human  
300 Resources or a licensed child placing agency shall be required  
301 by all of the following:

302 (1) The adoptee, if 14 years of age or older, except  
303 when the court finds that the adoptee does not have the mental  
304 capacity to give consent.

305 (2) The adoptee's legal mother or mothers.

306 (3) The adoptee's legal father or fathers.

307 (4) If the adoptee has no legal father, the putative  
308 father if made known by the mother or is otherwise made known



## HB101 INTRODUCED

309 to the court, provided he complies with Section 26-10C-1 and  
310 responds within 30 days to the notice received under Section  
311 26-10E-17(a).

312 (5) Any legal custodian or legal guardian of the  
313 adoptee if both parents are dead or presumed dead, if the  
314 rights of the parents have been terminated by judicial  
315 proceedings, or if the consent of both parents is otherwise  
316 not required pursuant to Section 26-10E-10, and if any legal  
317 custodian or legal guardian has authority by order of the  
318 court to consent to the adoption except that the court may  
319 grant the adoption without the consent of that legal custodian  
320 or legal guardian if the court determines that such consent  
321 was unreasonably withheld.

322 (6) The Department of Human Resources, if the minor has  
323 been relinquished to it for the purposes of adoption or it  
324 otherwise holds temporary or permanent custody of the minor,  
325 except that the court may grant the adoption without the  
326 consent of the department if the adoption is in the best  
327 interests of the adoptee and there is a finding by the court  
328 the department has unreasonably withheld its consent.

329 (7) The licensed child placing agency to which the  
330 child has been relinquished for adoption, except that the  
331 court may grant the adoption without the consent of the agency  
332 if the adoption is in the best interests of the adoptee and  
333 there is a finding by the court the agency has unreasonably  
334 withheld its consent.

335 (b) The Director of the Department of Human Resources  
336 or the designee of the director and the executive head of a



## HB101 INTRODUCED

337 licensed child placing agency may appoint an employee of the  
338 department or agency to give or to deny consent for adoption  
339 of adoptee.

340 (c) Notwithstanding any law to the contrary, a court  
341 having jurisdiction over a case under this chapter shall have  
342 the power to determine the biological or legal parentage of a  
343 minor to ascertain whose consent shall be required or to  
344 adjudicate any other claim or issue in the case.

345 §26-10E-8

346 (a) Prior to a minor parent's giving express consent to  
347 an adoption or executing a relinquishment for adoption, a  
348 guardian ad litem must be appointed to represent the interests  
349 of the minor parent whose consent is required. Any minor  
350 parent, 14 years of age and older, may nominate a guardian ad  
351 litem either prior to the birth of the adoptee or thereafter.

352 (b) A minor parent may give his or her implied consent  
353 to an adoption in the same manner as an adult parent under  
354 Section 26-10E-9. If a court finds by clear and convincing  
355 evidence that a minor parent has given implied consent to the  
356 adoption, notice and the appointment of a guardian ad litem  
357 shall not be necessary. The implied consent of a minor parent  
358 may not be withdrawn.

359 (c) The express or implied consent of, or  
360 relinquishment by, a minor parent shall not be subject to  
361 revocation by reason of such minority.

362 §26-10E-9

363 (a) A rebuttable presumption that a parent has  
364 impliedly consented to the adoption or the relinquishment for



## HB101 INTRODUCED

365 adoption of an adoptee arises when clear and convincing  
366 evidence shows any of the following:

367 (1) Abandonment of the adoptee by the parent during the  
368 four months immediately preceding the date of the filing of  
369 the petition for adoption.

370 (2) Abandonment by the legal father or putative father  
371 of the biological mother by failing to offer to the biological  
372 mother financial or emotional support, or both, during the  
373 four months immediately preceding the birth of the adoptee  
374 despite knowing or having reason to know of the pregnancy.

375 (3) The parent, without good cause of excuse, left the  
376 adoptee without provision for his or her identification for a  
377 period of 30 days.

378 (4) The parent voluntarily and knowingly, without good  
379 cause or excuse, left the adoptee with another person without  
380 personally providing support for, initiating communication  
381 with, or otherwise maintaining a substantial relationship with  
382 the adoptee for the four consecutive months immediately  
383 preceding the date of the filing of the petition.

384 (b) A rebuttable presumption that any individual or  
385 agency whose consent is required has impliedly consented to  
386 the adoption, or the relinquishment for adoption, of an  
387 adoptee arises when clear and convincing evidence shows that  
388 the individual or agency has received notification of the  
389 pendency of the adoption proceedings pursuant to Section  
390 26-10E-17 and has failed to answer or otherwise respond to the  
391 petition within 30 days.

392 (c) Implied consent under subsections (a) or (b) may



## HB101 INTRODUCED

393 not be withdrawn by any person.

394 (d) A putative father who fails to file a notice of  
395 intent to claim paternity of an adoptee pursuant to Section  
396 26-10C-1 prior to or within 30 days of the birth of the  
397 adoptee shall be deemed to have given irrevocable implied  
398 consent to, or relinquishment for, the adoption of the  
399 adoptee.

400 (e) At any time before the birth of the adoptee, a  
401 licensed child placing agency, an attorney representing the  
402 legal mother, or an attorney representing the prospective  
403 adoptive parents may serve a putative father with notice  
404 consistent with Section 26-10E-17 that the legal mother is  
405 considering an adoptive placement of the unborn child in a  
406 form to be developed by the Administrative Office of Courts  
407 and the Alabama Law Institute. The notice shall not obligate  
408 the legal mother to place the child for adoption. A putative  
409 father intending to contest the adoption shall have 30 days  
410 from the date of service of the notice to file an action to  
411 establish his paternity of the unborn child under Section  
412 26-17-611 and to register with the putative father registry  
413 pursuant to Section 26-10C-1. If the notified putative father  
414 fails to file this action and register with the putative  
415 father registry, his failure shall be deemed an irrevocable  
416 implied consent to the adoption of the child.

417 §26-10E-10

418 Notwithstanding the provisions of Section 26-10E-7, the  
419 consent of the following persons shall not be required for an  
420 adoption or relinquishment for adoption:





## HB101 INTRODUCED

421 (1) A parent of the adoptee whose rights with reference  
422 to the adoptee have been terminated by a final judgment of a  
423 court of this or any other state.

424 (2) A parent of the adoptee who has been adjudged  
425 incompetent or incapacitated pursuant to law or a parent whom  
426 the court finds to be mentally incapable of consenting or  
427 relinquishing and whose mental disability is likely to  
428 continue for so long a period that it would be detrimental to  
429 the adoptee to delay adoption until restoration of the  
430 parent's competency or capacity. The court must appoint  
431 independent counsel or a guardian ad litem for an incompetent  
432 or incapacitated parent for whom there has been no such prior  
433 appointment.

434 (3) A parent of an adoptee who has voluntarily  
435 relinquished the adoptee to the Department of Human Resources,  
436 a similar agency of another state, or a licensed child placing  
437 agency for an adoption, unless this relinquishment has been  
438 withdrawn in accordance with this chapter or the law of the  
439 state in which the relinquishment was made.

440 (4) A deceased parent of the adoptee or a parent of the  
441 adoptee who is presumed to be deceased under this or any other  
442 state's law.

443 (5) A putative father of the adoptee who has signed a  
444 written statement denying paternity.

445 (6) A putative father of the adoptee when the mother  
446 swears in an affidavit pursuant to Section 26-10E-16(c) that  
447 the putative father is unknown, unless the putative father is  
448 otherwise made known to the court.



## HB101 INTRODUCED

449 (7) A putative father of the adoptee who fails to prove  
450 his paternity of the adoptee.

451 (8) A legal father or putative father when clear and  
452 convincing evidence is presented to the court that the adoptee  
453 was conceived by rape, incest, or sexual assault committed by  
454 the legal father or putative father, whose crimes are defined  
455 by the laws of this state or, if the crime occurred not in  
456 this state, the jurisdiction in which the crime occurred.

457 (9) A parent of the adoptee who has been convicted of  
458 child abuse or other felonious acts against the adoptee as  
459 defined by the laws of this state or, if the crime occurred  
460 not in this state, the jurisdiction in which the crime  
461 occurred.

462 §26-10E-11

463 An express consent or relinquishment shall be in  
464 writing, signed by the individual consenting or relinquishing,  
465 and shall state all of the following:

466 (1) The date, place, and time of execution.

467 (2) The date of birth or, if prior to birth, the  
468 expected date of birth of the adoptee and any names by which  
469 the adoptee has been known.

470 (3) The relationship and date of birth of the person  
471 consenting or relinquishing to the adoptee.

472 (4) If the right to know the identity of each  
473 petitioner has not been waived, the legal name of each  
474 petitioner, unless the document is a relinquishment of the  
475 adoptee to an agency.

476 (5) That the individual executing the document is



## HB101 INTRODUCED

477 voluntarily and unequivocally consenting to the adoption of  
478 the adoptee. If the individual executing the document consents  
479 to the adoption of the adoptee by only a designated individual  
480 or married couple, the express consent shall specify that the  
481 consent applies only to that individual or married couple, as  
482 identified by his, her, or their legal names and that the  
483 express consent shall not be construed to apply to any other  
484 individual seeking to adopt the adoptee.

485 (6) That by signing the document, the individual  
486 executing the document understands that, except as otherwise  
487 provided in this chapter, upon the entry of the final judgment  
488 of adoption, he or she forfeits all rights and obligations to  
489 the adoptee and that he or she understands the express consent  
490 or relinquishment and executes it freely and voluntarily.

491 (7) That the individual signing the document has been  
492 advised and understands that his or her express consent or  
493 relinquishment may be withdrawn only in the manner, and within  
494 the time periods, as provided in Sections 26-10E-13 and  
495 26-10E-14, and that the adoption may not be collaterally  
496 attacked after the entry of the final judgment of adoption,  
497 except as authorized in this chapter.

498 (8) That the individual signing the document  
499 understands that the express consent may become irrevocable,  
500 and that the individual should not execute it if he or she  
501 needs or desires psychological or legal advice, guidance, or  
502 counseling.

503 (9) The address of the court in which the petition for  
504 adoption has been or will be filed, if known, and if not



## HB101 INTRODUCED

505 known, the name and address of the agency, any petitioner, or  
506 the attorney of any petitioner on whom notice of the  
507 withdrawal or relinquishment of express consent may be served.

508 (10) In the case of relinquishment, the name and  
509 address of the agency to which the adoptee has been  
510 relinquished.

511 (11) That the individual executing the document has  
512 received or has been offered a copy of the express consent or  
513 relinquishment and withdrawal form.

514 (12) That the individual executing a relinquishment  
515 waives further notice of the adoption proceeding.

516 (13) That the individual executing an express consent  
517 waives further notice of the adoption proceedings unless there  
518 is a contest or appeal of the adoption proceeding.

519 §26-10E-12

520 (a) An express consent of the biological mother taken  
521 prior to the birth of an adoptee shall be signed or confirmed  
522 before a judge of probate. At the time of taking the express  
523 consent, the judge shall explain to the consenting parent the  
524 legal effect of signing the document and the time limits and  
525 procedures for withdrawal of the express consent and shall  
526 provide the consenting parent with two copies of the form for  
527 withdrawing the express consent in accordance with the  
528 requirements of Sections 26-10E-13 and 26-10E-14.

529 (b) Except as provided in subsection (a), all other  
530 pre-birth or post-birth express consents or relinquishments  
531 regarding the adoptee shall be signed or confirmed before any  
532 of the following:



## HB101 INTRODUCED

533 (1) A judge or clerk of any court that has jurisdiction  
534 over adoption proceedings or a public officer appointed by the  
535 judge for the purpose of taking express consents.

536 (2) An individual appointed to take express consents  
537 who is appointed by any agency that is authorized to conduct  
538 investigations or home studies provided by Section 26-10E-19,  
539 or, if the express consent is taken out of state, by an  
540 individual appointed to take consents by any agency that is  
541 authorized by that state's law to conduct investigations and  
542 home studies for adoptions.

543 (3) A notary public.

544 (c) The Administrative Office of Courts, in  
545 collaboration with the Alabama Law Institute, a division of  
546 the Legislative Services Agency, shall prepare the forms  
547 necessary to meet the requirements of this chapter.

548 §26-10E-13

549 (a) All existing express consents or relinquishments  
550 required by this chapter shall be filed with the probate court  
551 along with the petition. Any other express consents or  
552 relinquishments required by this chapter and acquired while  
553 the petition for adoption is pending shall be filed with the  
554 court overseeing the adoption before the final judgment of  
555 adoption is entered.

556 (b) An express consent or relinquishment may be taken  
557 at any time, except that, once signed or confirmed, may be  
558 withdrawn for any reason within five business days after the  
559 birth of the adoptee or within five business days after the  
560 signing of the express consent or relinquishment, whichever



## HB101 INTRODUCED

561 comes last.

562 §26-10E-14

563 (a) The consent or relinquishment, once signed or  
564 confirmed, may not be withdrawn except in one of the following  
565 circumstances:

566 (1) As provided in Section 26-10E-13.

567 (2) When, at any time before entry of the final  
568 judgment of adoption, the court determines that the express  
569 consent or relinquishment was obtained by fraud, duress,  
570 mistake, or undue influence on the part of, or on behalf of,  
571 the petitioner; provided, however, that, after one year from  
572 the date of entry of the final judgment of adoption and after  
573 all appeals, if any, an express consent or relinquishment may  
574 not be challenged on any ground, except in cases of fraud or  
575 cases in which the adoptee has been kidnapped.

576 (3) Upon denial of a petition for adoption after a  
577 contested case under Section 26-10E-24.

578 (b) The withdrawal of express consent or relinquishment  
579 as provided in Section 26-10E-13(b) shall become effective by  
580 the affiant's signing and dating the withdrawal form provided  
581 pursuant to Section 26-10E-12, or by filing the withdrawal  
582 form within five business days of the child's birth or within  
583 five business days of signing the express consent or  
584 relinquishment, whichever comes last.

585 (c) The petition to withdraw express consent or  
586 relinquishment must be in writing, executed by the individual  
587 seeking to withdraw the express consent or relinquishment,  
588 dated, and signed by two witnesses or a notary public.



## HB101 INTRODUCED

589 (d) In adjudicating a petition to withdraw an express  
590 consent or relinquishment, the court shall require that the  
591 individual seeking to withdraw the express consent or  
592 relinquishment shall establish the facts necessary to withdraw  
593 the express consent or relinquishment by a preponderance of  
594 the evidence.

595 (e) If the court directs that the express consent or  
596 relinquishment be withdrawn, the court shall order the child  
597 restored to the custody of his or her parent or parents, the  
598 county Department of Human Resources, or a licensed child  
599 placing agency, as the case may be; otherwise, the court shall  
600 deny the withdrawal and declare that the express consent or  
601 relinquishment is final and binding. Any order made by the  
602 court upon a petition to withdraw express consent or  
603 relinquishment under this section shall be deemed a final  
604 judgment for the purpose of filing an appeal under Section  
605 26-10E-25.

606 §26-10E-15

607 (a) No health facility shall surrender the physical  
608 custody of an adoptee to any individual or entity other than  
609 the county Department of Human Resources (the department), a  
610 licensed child placing agency, parent, relative by blood or  
611 marriage, or individual having legal custody, unless this  
612 surrender is authorized in a writing executed after the birth  
613 of the adoptee by one of the adoptee's parents, the agency, or  
614 the individual having legal custody of the adoptee.

615 (b) A health facility shall report to the county  
616 Department of Human Resources, on forms supplied by the



## HB101 INTRODUCED

617 department, the name and address of any individual and, in the  
618 case of an individual acting as an agent for an organization,  
619 the name and address of the organization to whose physical  
620 custody an adoptee is surrendered. This report shall be  
621 transmitted to the department within 48 hours from the  
622 surrendering of custody.

623 §26-10E-16

624 (a) A petition for adoption of an adoptee shall bear  
625 the caption "In the Matter of the Adoption Petition of [each  
626 named petitioner.]" The completed petition shall be signed and  
627 verified by each petitioner and shall set forth each of the  
628 following:

629 (1) The full name, date of birth, place of residence,  
630 and relationship to the adoptee of each petitioner, and, if  
631 the petitioners are married, the place and date of their  
632 marriage.

633 (2) The date and place of birth of the adoptee, if  
634 known.

635 (3) The birth name of the adoptee, any other names by  
636 which the adoptee has been known, and the name by which the  
637 adoptee shall be known.

638 (4) That the physical custody of the adoptee has been  
639 placed with the petitioner or petitioners for the purpose of  
640 adoption and that the adoptee has been residing with the  
641 petitioner or petitioners since a specified date, or a  
642 statement of good cause as to why placement and physical  
643 custody is not required or should be excused or waived.

644 (5) That the petitioner or petitioners desire to





## HB101 INTRODUCED

645 establish a parent and child relationship between himself or  
646 herself and the adoptee and that he or she is a fit and proper  
647 individual able to care for and provide for the adoptee's  
648 welfare.

649 (6) The existence and nature of any prior or pending  
650 judicial proceedings known to the petitioner or petitioners  
651 that affect the custody, visitation with, or parentage of, the  
652 adoptee.

653 (7) The name and address of the licensed child placing  
654 agency, if any.

655 (8) The names and addresses of all individuals or  
656 agencies known to the petitioner or petitioners at the time of  
657 filing from whom consents or relinquishments to the adoption  
658 are required and whether the individuals or agencies have  
659 given express or implied consent to the adoption.

660 (9) The names and addresses of all other individuals or  
661 agencies known to the petitioner or petitioners who are  
662 entitled to notice of the adoption proceedings under Section  
663 26-10E-17.

664 (b) The petitioner or petitioners shall attach each of  
665 the following to the petition:

666 (1) A government-issued document bearing photographic  
667 identification of each petitioner.

668 (2) If the petitioners are married, a certified  
669 document establishing proof of marriage or an affidavit of  
670 their common law marriage.

671 (3) A certified copy of the adoptee's birth certificate  
672 issued within six months of the date of the filing of the



## HB101 INTRODUCED

673 petition or an affidavit stating that application for the  
674 birth certificate has been made.

675 (4) Any written authorization allowing the adoptee to  
676 be placed in the home of the petitioner or petitioners.

677 (5) A copy of any court orders affecting the custody,  
678 visitation with, or parentage of, the adoptee accessible to  
679 the petitioner or petitioners.

680 (6) Any and all existing express consents and  
681 relinquishments upon which the petitioner or petitioners rely  
682 for the adoption.

683 (7) If a pre-placement investigation is required under  
684 this chapter, a copy of the pre-placement investigation  
685 report.

686 (8) An accounting of all anticipated costs and expenses  
687 for the adoption.

688 (c) In the case of an unknown father, a verified  
689 affidavit signed by the biological mother, under penalty of  
690 perjury, setting forth the following information shall be  
691 attached to the petition, unless the whereabouts of the mother  
692 are unknown, she is deceased, or the parental rights of the  
693 mother and unknown father have been previously terminated as  
694 to the adoptee:

695 (1) Whether the mother was married at the probable time  
696 of conception of the adoptee, or at a later time, and if so,  
697 the identity and last known address of her husband.

698 (2) Whether the mother was cohabitating with a man at  
699 the probable time of conception of the adoptee, and, if so,  
700 the identity of the man, his last known address, and why the



## HB101 INTRODUCED

701 mother contends the man is not the legal father or putative  
702 father of the adoptee.

703 (3) Whether the mother has received payments or promise  
704 of support from any man with respect to the adoptee or her  
705 pregnancy, and, if so, the identity of the man, his last known  
706 address, and why the mother contends the man is not the legal  
707 father or putative father of the adoptee.

708 (4) Whether the mother has named any man as the father  
709 on the birth certificate of the adoptee or in connection with  
710 applying for or receiving public assistance, and if so, the  
711 identity of the man, his last known address, and why the  
712 mother contends the man is not the legal father or putative  
713 father of the adoptee.

714 (5) Whether the mother identified any man as the legal  
715 father or putative father of the adoptee to any hospital  
716 personnel, and, if so, the identity of the man, his last known  
717 address, the name and address of the hospital, and why the  
718 mother contends the man is not the legal father or putative  
719 father of the adoptee.

720 (6) Whether the mother has informed any man that he may  
721 be the legal father or putative father of the adoptee, and, if  
722 so, the identity of the man, his last known address, and why  
723 the mother contends the man is not the legal father or  
724 putative father of the adoptee.

725 (7) Whether any man has formally or informally  
726 acknowledged or claimed paternity of the adoptee in any  
727 jurisdiction at the time of the inquiry, and if so, the  
728 identity of the man, his last known address, and why the



## HB101 INTRODUCED

729 mother contends the man is not the legal father or putative  
730 father of the adoptee.

731 (8) That the mother has been informed that her  
732 statement concerning the identity of the legal father or  
733 putative father will be used only for the limited purpose of  
734 adoption and, once the adoption is complete, that such  
735 identity will be sealed.

736 (9) That the mother acknowledges she is aware of the  
737 remedies available to her for protection from abuse pursuant  
738 to Alabama law, commencing with Section 30-5-1.

739 (d) The petition, the various documents attached  
740 thereto as required by this section, or an appendix signed by  
741 counsel or other credible individuals shall fully disclose all  
742 that is known about the biological parentage of the adoptee.

743 (e) Except in cases governed by Section 26-10E-26 or  
744 Section 26-10E-27, the petition for adoption shall be filed  
745 with the clerk of the probate court within 60 days after the  
746 adoptee is physically placed with the petitioner or  
747 petitioners for purposes of adoption unless the adoptee is in  
748 the custody of the Department of Human Resources, a licensed  
749 child placing agency, or is currently receiving care in a  
750 medical facility, except that, for good cause shown, a  
751 petition may be filed beyond the 60-day period. In cases  
752 governed by Sections 26-10E-26 or 26-10E-27, the petition may  
753 be filed at any time.

754 §26-10E-17

755 (a) Unless notice has been previously waived as  
756 provided in subsection (d), notice of pendency of an adoption



## HB101 INTRODUCED

757 proceeding shall be served by the petitioner on each of the  
758 following:

759 (1) Any individual, agency, or institution whose  
760 consent or relinquishment is required.

761 (2) The legal father of the adoptee.

762 (3) The putative father of the adoptee, if made known  
763 to the court, provided the putative father has complied with  
764 Section 26-10C-1.

765 (4) The legal custodian or guardian of the adoptee.

766 (5) The spouse of a petitioner who is a stepparent  
767 unless express consent is attached to the petition.

768 (6) A grandparent of the adoptee if the grandparent's  
769 child is a deceased parent of the adoptee and, before his or  
770 her death, the deceased parent had not executed an express  
771 consent or relinquishment or the deceased parent's parental  
772 relationship to the adoptee had not been otherwise terminated.

773 (7) Any person known to the petitioner or petitioners  
774 as currently having physical custody of the adoptee or having  
775 visitation rights with the adoptee under an existing court  
776 order.

777 (8) The agency or individual authorized to investigate  
778 the adoption under Section 26-10E-19.

779 (9) The Alabama Department of Human Resources.

780 (10) If the adoptee is in foster care, the director of  
781 the county Department of Human Resources with legal custody of  
782 the adoptee.

783 (11) Any other person designated by the court.

784 (b) The notice shall contain all of the following



## HB101 INTRODUCED

785 information:

786 (1) That a petition for adoption of the adoptee has  
787 been filed in the probate court.

788 (2) That the notified party may appear in the adoption  
789 proceeding to contest or to support the petition.

790 (3) That the notified party has 30 days from the time  
791 of proper service of the notice to respond to the notice.

792 (4) That, if the notified party fails to respond within  
793 30 days of proper service, the court may construe that failure  
794 as an implied consent to the adoption and as a waiver of a  
795 right to appear and of further notice of the adoption  
796 proceedings.

797 (5) That, if the adoption is approved, the parental  
798 rights of the notified party, if any, will be considered  
799 terminated.

800 (c) Service of the notice shall be made in the  
801 following manner:

802 (1) Service of process shall be made in accordance with  
803 the Alabama Rules of Civil Procedure unless otherwise provided  
804 herein. Service on the parties designated in subdivisions  
805 (a)(8), (a)(9), and (a)(10) shall be by certified mail. As to  
806 any other individual, agency, or institution for whom notice  
807 is required under subsection (a), service by certified mail,  
808 return receipt requested, shall be sufficient. If this service  
809 cannot be completed after two attempts, upon motion and  
810 affidavit, the court shall issue an order providing for one of  
811 the following:

812 a. Service by publication.



## HB101 INTRODUCED

813           b. Posting notice in the courthouse of the court  
814 exercising jurisdiction over the adoption proceedings and in  
815 the courthouse of the probate court of the county of the  
816 biological parents' last known address.

817           c. Any other substituted service as determined by the  
818 court.

819           (d) Service by publication shall be made in the county  
820 of the last known address of the mother and the legal or  
821 putative father unless no newspaper of general circulation  
822 exists in the county, in which case service by publication  
823 shall be made in a newspaper with general circulation in that  
824 county.

825           (e) The notice required by this section may be waived  
826 in writing by the person entitled to receive notice. A party  
827 listed in subdivisions (a)(8), (a)(9), and (a)(10) may appoint  
828 an employee to waive notice on its behalf.

829           (f) Proof of service of the notice on all persons for  
830 whom notice is required by this section must be filed with the  
831 court before the adjudicatory hearing of a contested case  
832 provided for in Section 26-10E-23.

833           §26-10E-18

834           (a) Once a petitioner or petitioners has received an  
835 adoptee into his or her home for the purposes of adoption and  
836 a petition for adoption has been filed, an interlocutory order  
837 may be entered delegating to the petitioner or petitioners  
838 both of the following:

839           (1) Physical custody, except legal custody shall be  
840 retained by the county Department of Human Resources or the



## HB101 INTRODUCED

841 licensed child placing agency which held legal custody at the  
842 time of the placement until the entry of final judgment of  
843 adoption.

844 (2) The responsibility for the care, maintenance, and  
845 support of the adoptee, including any necessary medical or  
846 surgical treatment, pending further order of the court.

847 (b) This interlocutory order shall not stop the running  
848 of the time periods proscribed in Section 26-10E-9.

849 §26-10E-19

850 (a) A pre-placement investigation shall be completed to  
851 determine the suitability of each petitioner and the home in  
852 which the adoptee will be placed. The pre-placement  
853 investigation shall include a criminal background  
854 investigation and any other circumstances which might be  
855 relevant to the placement of an adoptee with the petitioner or  
856 petitioners. The investigation must include, but is not  
857 limited to, all the following:

858 (1) Letters of suitability for each adult living in the  
859 home of the petitioner or petitioners based on the information  
860 available in this state or the petitioner's place of residence  
861 if other than this state. For the purposes of this section,  
862 the term "letters of suitability" refers to the Federal Bureau  
863 of Investigation and the State Bureau of Investigation  
864 clearances.

865 (2) Child abuse and neglect clearances pursuant to the  
866 Adam Walsh Act, Public Law 109-248, for all household members  
867 14 years of age and older from any state in which any  
868 petitioner has resided for five years or more.





## HB101 INTRODUCED

869 (3) The anticipated costs and expenses related to the  
870 adoption.

871 (4) Any agency and social worker licenses.

872 (5) Six reference letters, four unrelated to the  
873 petitioner or petitioners by blood or marriage and two related  
874 to the petitioner or petitioners by blood or marriage. If  
875 there are two petitioners, one related reference letter shall  
876 be written by a member of each petitioner's family.

877 (6) Medical reports on all individuals living in the  
878 home, and letters from any prescribing doctors for any  
879 controlled substance prescriptions.

880 (7) The financial worksheets for each petitioner for  
881 the previous tax year or a copy of the previous year's tax  
882 returns.

883 (8) Copies of each petitioner's birth certificates and  
884 marriage licenses.

885 (9) Copies of current pet vaccinations.

886 (10) Copies of any divorce decrees, if applicable.

887 (11) Copies of any death certificates, if applicable.

888 (12) Verification of who will do supervisory visits, if  
889 applicable.

890 (13) A written biography of each petitioner, including  
891 medical and social history.

892 (14) A home safety inspection indicating that the home  
893 of the petitioner or petitioners is safe for the adoptee's  
894 residency.

895 (15) Any other requirement pursuant to Title 660 of the  
896 Alabama Administrative Code or any other rule adopted by the



## HB101 INTRODUCED

897 Department of Human Resources.

898 (b) An individual or married couple may initiate a  
899 pre-placement investigation by request through either of the  
900 following individuals:

901 (1) Anyone authorized in the jurisdiction in which the  
902 petitioner or petitioners reside.

903 (2) Anyone approved by the probate court under the  
904 qualifications of subsection (f) to perform the pre-placement  
905 investigation.

906 (c) Notwithstanding subdivision (b)(1), the court on  
907 its own motion may order the pre-placement investigation be  
908 performed by an agency or individual other than the agency  
909 placing the adoptee.

910 (d) Upon completion of the pre-placement investigation,  
911 a copy of the pre-placement investigative report shall be sent  
912 to the petitioner or petitioners. The pre-placement  
913 investigative report is to be filed with the court at the time  
914 of the filing of the petition for adoption unless the court  
915 grants leave to file the report after the filing of the  
916 petition for good cause shown on the record. The pre-placement  
917 investigation must be performed within 12 months of the filing  
918 of the petition for adoption.

919 (e) No judgment for the adoption of any adoptee shall  
920 be entered until a full post-placement investigative report  
921 has been completed and filed with the court concerning all of  
922 the following:

923 (1) Why the biological parents or legal parents, if  
924 living, desire to be relieved of the care, support, and



## HB101 INTRODUCED

925 guardianship of the adoptee.

926 (2) Whether the biological parents or legal parents  
927 have abandoned the adoptee or are otherwise unsuited to have  
928 custody of the adoptee.

929 (3) Any orders, judgments, or decrees affecting the  
930 custody of the adoptee or any children of any petitioner as  
931 can be determined by a due diligence search.

932 (4) Any property owned by the adoptee.

933 (5) The updated medical and mental health histories of  
934 the adoptee. These documents shall also be provided to the  
935 petitioner or petitioners in writing before the final decree  
936 is entered.

937 (6) The updated medical and mental health histories of  
938 the adoptee's biological parents.

939 (7) Any other circumstances which may be relevant to  
940 the placement of the adoptee with the petitioner or  
941 petitioners.

942 (8) The updated letters of suitability, the updated  
943 Child Abuse and Neglect Clearances, updated criminal records  
944 from the county in which the petitioner or petitioners have  
945 resided for the two years prior to the finalization of the  
946 adoption, and updated results from the National Sex Offender  
947 Public Registry.

948 (9) If applicable to the adoption, the court shall  
949 ensure compliance with the Interstate Compact for the  
950 Placement of Children, codified as Section 44-2-20. Proof of  
951 compliance is determined by the authorized signatures of the  
952 sending and receiving states on the Interstate Compact on the



## HB101 INTRODUCED

953 Placement of Children Request Form.

954 (f) The required pre-placement and post-placement  
955 investigations must be performed by one of the following:

956 (1) The Department of Human Resources.

957 (2) A licensed child placing agency.

958 (3) A social worker licensed by the State Board of  
959 Social Work Examiners who is also certified by the State Board  
960 of Social Work Examiners for private independent practice in  
961 the social casework specialty, as provided in Section 34-30-3.

962 (g) Notwithstanding subdivision (f), the court on its  
963 own motion may order the post-placement investigation be  
964 performed by an agency or individual other than the agency  
965 placing the adoptee when the court has cause to believe the  
966 post-placement investigation is insufficient.

967 (h) In every adoption proceeding, after a child has  
968 been placed in the home of the petitioner or petitioners, the  
969 post-placement investigator must observe the adoptee and  
970 interview each petitioner in his or her home as soon as  
971 possible after notice of the placement but within 45 days  
972 after the placement.

973 (i) The investigator shall complete and file the  
974 pre-placement written investigative report with the court  
975 within 60 days from receipt of notice of the proceeding and  
976 shall deliver a copy of the pre-placement investigative report  
977 to each petitioner's attorney or to each petitioner appearing  
978 pro se. The pre-placement investigative report shall include a  
979 verification of all allegations of the petition. The  
980 pre-placement investigative report shall include sufficient



## HB101 INTRODUCED

981 facts for the court to determine whether there has been  
982 compliance with consent or relinquishment provisions of this  
983 chapter. The post-placement investigative report shall include  
984 all the information enumerated within subdivisions (a)(1)  
985 through (a)(10) that was not obtained in the pre-placement  
986 investigation required under subsection (a). The  
987 post-placement investigative report shall be submitted in a  
988 form developed by the Department of Human Resources in  
989 conjunction with the Alabama Probate Judges Association and  
990 the Alabama Law Institute.

991 (j) Upon a showing of good cause and after notice to  
992 the petitioners, the court may grant extensions of time to the  
993 investigator to file an investigative report. Notwithstanding  
994 this extension of time, the pre-placement and post-placement  
995 investigative reports must be filed prior to the entry of the  
996 final judgment.

997 (k) Notwithstanding this section, no investigations  
998 shall be required for those adoptions under Sections 26-10E-26  
999 and 26-10E-27 unless ordered by the court or otherwise  
1000 required by Article 8 of Section 44-2-20.

1001 (l) When an investigation has been conducted, the  
1002 investigatory report shall not be conclusive but may be  
1003 considered along with other evidence.

1004 (m) The court may, in its discretion, order the  
1005 appointment of a court representative to investigate and  
1006 evaluate any matters relating to adoption, including the best  
1007 interests of the adoptee.

1008 §26-10E-20



## HB101 INTRODUCED

1009           After the petitioner or petitioners have received the  
1010 adoptee into his, her, or their home, the adoptee shall not be  
1011 removed from the county in which the petitioner or petitioners  
1012 reside until the final judgment has been entered for a period  
1013 of longer than 15 consecutive days, unless notice is given to  
1014 the investigative agency or individual.

1015           §26-10E-21

1016           (a) In making adoption arrangements, potential adoptive  
1017 parents and biological parents may obtain counsel to provide  
1018 legal advice and assistance.

1019           (b) When required by this chapter, the court may  
1020 appoint a guardian ad litem for the adoptee, any mentally  
1021 incapacitated person, or a minor. In cases in which a guardian  
1022 ad litem is not required by this chapter, upon a motion of a  
1023 party or on its own motion, the court may appoint a guardian  
1024 ad litem for good cause shown.

1025           (c) The fees of the guardian ad litem shall be assessed  
1026 by the court and taxed as costs upon the conclusion of  
1027 services provided by the guardian ad litem; provided, however,  
1028 that in contested cases under Section 26-10E-23, the court  
1029 shall assess and award the guardian ad litem a fee at the time  
1030 of appointment based on the reasonable amount of fees expected  
1031 to be incurred. The fees shall be payable by the contestant  
1032 and the petitioner proportionately as determined by the court,  
1033 subject to the authority of the court to revise the amount or  
1034 proportionate responsibility for the fees upon entry of the  
1035 final judgment adjudicating the contest.

1036           (d) The court shall have the power to enforce any award



## HB101 INTRODUCED

1037 of fees to the guardian ad litem through contempt or other  
1038 enforcement proceedings.

1039 §26-10E-22

1040 (a) No individual, organization, group, agency, or any  
1041 legal entity may accept any fee whatsoever for bringing any  
1042 petitioner together with the adoptee or the parents of the  
1043 adoptee.

1044 (2) A violation of this section is a Class A  
1045 misdemeanor, except that a second or subsequent conviction is  
1046 a Class C felony.

1047 (b) (1) The petitioner or petitioners may provide  
1048 payment for maternity-connected expenses, medical or hospital  
1049 expenses, and necessary living expenses of the mother  
1050 preceding and during pregnancy-related incapacity, provided  
1051 that the payment is not contingent upon the placement of the  
1052 minor child for adoption, consent to the adoption, or  
1053 cooperation in the completion of the adoption.

1054 (2) Prior to any payment pursuant to this subsection,  
1055 the petitioner or petitioners must file with the court a full  
1056 accounting of all charges for expenses, fees, or services they  
1057 or individuals acting on their behalf will be paying relating  
1058 to the adoption. Payment may be made only with court approval  
1059 except that fees may be placed in an escrow account prior to  
1060 court approval. The court may not refuse to approve a fee for  
1061 documented services on the sole basis that a prospective  
1062 adoptee has not been placed. The court shall approve all  
1063 reasonable fees and expenses unless determined by the court to  
1064 be unreasonable based upon specific written findings of fact.



## HB101 INTRODUCED

1065 (c) Unless otherwise provided in this chapter, the  
1066 petitioner or petitioners must also file a sworn statement  
1067 that is a full accounting of all disbursements paid in the  
1068 adoption.

1069 (d) Under penalty of perjury, the adoptive parents and  
1070 the parent or parents surrendering the adoptee for adoption,  
1071 prior to the entry of the final judgment of adoption, shall  
1072 sign affidavits stating that no monies or other things of  
1073 value have been paid or received in exchange for the consent  
1074 or relinquishment of the minor for adoption. In addition to  
1075 any penalties for perjury, the payment or receipt of money in  
1076 violation of this section shall be punished as set forth in  
1077 Section 26-10E-33.

1078 §26-10E-23

1079 (a) Upon the filing of a pleading or a motion by a  
1080 party contesting the adoption, or upon transfer of a contested  
1081 case pursuant to Section 26-10E-3, the court shall forthwith  
1082 set the matter for a contested hearing to determine each of  
1083 the following:

1084 (1) Whether the best interests of the adoptee will be  
1085 served by the adoption.

1086 (2) Whether the adoptee is available for adoption by  
1087 each petitioner and whether each petitioner qualifies to adopt  
1088 an adoptee within the requirements of this chapter.

1089 (3) Whether all necessary express consent, implied  
1090 consent, or relinquishment to the adoption have been given  
1091 and, if so, are valid.

1092 (4) Whether an express consent or relinquishment has





## HB101 INTRODUCED

1093 been or may be withdrawn.

1094 (b) The court shall give at least 14 days of notice of  
1095 the contested hearing by United States mail to all parties who  
1096 have appeared before the court, unless notice has been waived  
1097 in writing. The party contesting the adoption and each  
1098 petitioner shall be present at the contested hearing. A  
1099 guardian ad litem shall appear and represent the interests of  
1100 the adoptee. Any contestant who is a mentally incapacitated  
1101 person or a minor shall also be represented by a guardian ad  
1102 litem in addition to any counsel retained by the contestant.

1103 (c) The court may continue the hearing from time to  
1104 time to permit notice to all parties, or to permit further  
1105 discovery, observation, investigation, or consideration of any  
1106 fact or circumstance affecting the granting or denial of the  
1107 adoption petition. The court may order the investigator  
1108 appointed under Section 26-10E-19, or a court representative  
1109 to investigate allegations underlying the contest or the  
1110 whereabouts of any person entitled to notice of the  
1111 proceeding.

1112 (d) After hearing evidence at a contested hearing, the  
1113 court shall decide the contest as soon as practicable. If it  
1114 is determined by the court that the adoption petition should  
1115 be denied, the court shall either transfer the case to the  
1116 appropriate juvenile court pursuant to Section 26-10E-3 for  
1117 the limited purpose of considering termination of parental  
1118 rights or it shall enter a final judgment denying the  
1119 adoption. Otherwise, the court shall enter a final judgment  
1120 denying the contest and, subject to any post judgment motions



## HB101 INTRODUCED

1121 and appellate proceedings, the probate court shall proceed as  
1122 provided in Section 26-10E-24. The entry of a final judgment  
1123 denying a contest terminates the status of the contestant as a  
1124 party to the adoption proceedings and terminates the  
1125 contestant's right to notice of further adoption proceedings.

1126 (e) At the contested-case hearing, the court shall  
1127 consider any motion of the petitioner or petitioners to obtain  
1128 reimbursement for all reasonable medical and living expenses  
1129 incidental to the care and well-being of the adoptee for the  
1130 time the adoptee resided with the petitioner or petitioners.  
1131 If the adoption is denied, the probate court, unless just  
1132 cause is shown otherwise by the contestant, shall order such  
1133 reimbursement.

1134 (f) (1) Following the entry of a final judgment denying  
1135 an adoption contest, the court shall enter a temporary custody  
1136 order determining each of the following:

1137 a. Whether it is in the best interests of the minor  
1138 child for the petitioner or petitioners to retain custody of  
1139 the minor child or for the minor child to be returned to the  
1140 person or agency with legal custody of the minor child prior  
1141 to the filing of the petition.

1142 b. Whether a written report should be sent to the  
1143 county Department of Human Resources pursuant to Chapter 14 of  
1144 Title 26 for a further determination concerning custody.

1145 (2) The custody determination shall remain in effect  
1146 only until another court of competent jurisdiction enters a  
1147 custodial order regarding the minor child.

1148 (g) Upon denial of a contest, the court, unless just



## HB101 INTRODUCED

1149 cause is shown otherwise by the contestant, shall issue an  
1150 order for reimbursement to the petitioner or petitioners of  
1151 the legal costs incurred by each petitioner incidental to the  
1152 contest.

1153 §26-10E-24

1154 (a) Once the petition for adoption and any necessary  
1155 accompanying documentation has been filed, the court shall set  
1156 a dispositional hearing to take place as soon as practicable,  
1157 but no later than 120 days after the filing. Upon good cause  
1158 shown, the court may extend the time for the dispositional  
1159 hearing.

1160 (b) At the dispositional hearing, the court shall  
1161 approve the adoption if it finds, based on clear and  
1162 convincing evidence, all of the following:

1163 (1) The adoptee has been in the actual physical custody  
1164 of the petitioner or petitioners for a period of 60 days,  
1165 unless for good cause shown, this requirement is waived by the  
1166 court.

1167 (2) All necessary consents, relinquishments,  
1168 terminations, or waivers have been obtained and, if  
1169 appropriate, filed with the court.

1170 (3) All documentation required pursuant to Section  
1171 26-10E-19 has been filed with the court, unless excluded under  
1172 Sections 26-10E-26 and 26-10E-27.

1173 (4) Service of the notice of pendency of the adoption  
1174 proceeding has been made or dispensed with as to all persons  
1175 entitled to receive notice under Section 26-10E-17.

1176 (5) All contests brought under Section 26-10E-23 have



## HB101 INTRODUCED

1177 been resolved in favor of the petitioner or petitioners.

1178 (6) Each petitioner is a suitable adoptive parent and  
1179 desires to establish a parent and child relationship between  
1180 himself or herself and the adoptee.

1181 (7) That the best interests of the adoptee are served  
1182 by the adoption.

1183 (8) That each petitioner has been cleared through each  
1184 of the following background checks:

1185 a. The Adam Walsh Act, U.S. Public Law 109-248,  
1186 including each of the following:

1187 1. State and federal criminal history.

1188 2. Child abuse and neglect history.

1189 3. Sex Offender Registry history.

1190 b. Child support payment history.

1191 (9) A sworn statement of full accounting of  
1192 disbursements pursuant to Section 26-10E-23, if applicable,  
1193 has been filed.

1194 (10) All other requirements of this chapter have been  
1195 met.

1196 (c) The court shall enter its finding in a written  
1197 final judgment of adoption, which shall also include the new  
1198 name of the adoptee after adoption and shall not include any  
1199 other name by which the adoptee has been known or any names of  
1200 the former parent. The final judgment of adoption shall  
1201 further order that, from the date of the entry of judgment,  
1202 the adoptee shall be the child of the petitioner or  
1203 petitioners, and that the adoptee shall be accorded the status  
1204 set forth in Section 26-10E-28.



## HB101 INTRODUCED

1205 §26-10E-25

1206 (a) (1) For the purposes of this chapter, a "final  
1207 judgment" is a judgment in which one of the following is true:

1208 a. The court adjudicates whether an express consent or  
1209 relinquishment has been withdrawn pursuant to Section  
1210 26-10E-14.

1211 b. The court adjudicates a contest to an adoption  
1212 pursuant to Section 26-10E-3 or Section 26-10E-23.

1213 c. A juvenile court terminates the parental rights of a  
1214 parent to the adoptee pursuant to Section 26-10E-3 and Section  
1215 26-10E-23(d).

1216 d. The court grants or denies the petition for  
1217 adoption.

1218 (2) A final judgment under this chapter shall be  
1219 entered in accordance with Rule 58 of the Alabama Rules of  
1220 Civil Procedure.

1221 (b) A party may file a post judgment motion challenging  
1222 any final judgment entered under this chapter. Any post  
1223 judgment motion must be filed within 14 days of the entry of  
1224 final judgment and no post judgment motion may remain pending  
1225 for more than 14 days, at which time it shall be deemed denied  
1226 by operation of law.

1227 (c) A party may appeal any final judgment entered by a  
1228 court under this chapter. An appeal may be made to the Alabama  
1229 Court of Civil Appeals by the proper filing of a notice of  
1230 appeal with the clerk of the court entering the final judgment  
1231 within 14 days of the entry of the final judgment, subject to  
1232 Rule 4(a) (3) of the Alabama Rules of Appellate Procedure and



## HB101 INTRODUCED

1233 Rule 77(d) of the Alabama Rules of Civil Procedure.

1234 (d) An appeal from any judgment of adoption entered  
1235 under this chapter shall have priority in all courts and shall  
1236 have precedence over all other matters, except for other  
1237 matters that have been given priority by specific statutory  
1238 provision or rule of court. All appeals shall comply with the  
1239 Alabama Rules of Appellate Procedure.

1240 (e) The court from which the appeal is taken shall  
1241 enter an order concerning the custody of the adoptee pending  
1242 appeal. Once the certificate of judgment has been issued by  
1243 the appellate court, the custody of the adoptee shall remain  
1244 subject to the custody determination made by the court unless  
1245 vacated or modified by the appellate court on appeal or unless  
1246 vacated or modified by the court that made the determination  
1247 or the court that assumed jurisdiction over the custody of the  
1248 adoptee pursuant to Section 26-10E-24.

1249 (f) A final judgment of adoption may not be  
1250 collaterally attacked more than one year after the entry of  
1251 final judgment of adoption, except for in the following  
1252 situations:

1253 (1) Fraud relating to the adoption proceedings.

1254 (2) The adoptee has been kidnapped.

1255 (3) An adoptive parent subsequent to the final judgment  
1256 of adoption has been convicted of a sexual offense, as  
1257 provided in Section 15-20A-5, involving the adoptee.

1258 §26-10E-26

1259 A stepparent of the adoptee may petition for adoption  
1260 of an adoptee under this chapter, except that:



## HB101 INTRODUCED

1261 (1) Before the entry of the final judgment, the adoptee  
1262 must have resided for a period of one year with the stepparent  
1263 petitioner.

1264 (2) An investigation shall be conducted to determine  
1265 the suitability of the stepparent petitioner and the home in  
1266 which the adoptee will reside, and the report of the  
1267 investigation, which shall include the information required by  
1268 subdivisions 26-10E-19(a)(1), (a)(2), and (a)(14), and which  
1269 may include other information required by Section 26-10E-19(a)  
1270 as directed by the court, shall be filed with the court no  
1271 later than within 30 days of the date of the filing of the  
1272 petition.

1273 (3) No report of fees and charges under Section  
1274 26-10E-22 shall be made unless ordered by the court.

1275 §26-10E-27

1276 Subject to Section 26-10E-5, a grandfather, a  
1277 grandmother, a great-grandfather, a great-grandmother, a  
1278 great-uncle, a great-aunt, a brother, a half-brother, a  
1279 sister, a half-sister, an aunt, or an uncle of the first  
1280 degree and their respective spouses, if any, may adopt a minor  
1281 grandchild, a minor great-grandchild, a minor great-niece, a  
1282 minor great-nephew, a minor brother, a minor half-brother, a  
1283 minor sister, a minor half-sister, a minor nephew, a minor  
1284 niece, according to the provisions of this chapter, except  
1285 that:

1286 (1) Before the final judgment of adoption is entered,  
1287 the adoptee must have resided for a period of one year with  
1288 the petitioner or petitioners.



## HB101 INTRODUCED

1289           (2) An investigation shall be conducted to determine  
1290 the suitability of each petitioner and the home in which the  
1291 adoptee will reside, and the report of the investigation,  
1292 which shall include the information required by subdivisions  
1293 26-10E-19(a)(1), (a)(2), and (a)(14), and which may include  
1294 other information required by Section 26-10E-19(a) as directed  
1295 by the court, shall be filed with the court no later than 30  
1296 days of the date of the filing of the petition.

1297           (3) No report of fees and charges under Section  
1298 26-10E-22 shall be made unless ordered by the court.

1299           §26-10E-28

1300           (a) The adoptee shall take the name designated by the  
1301 petitioner or petitioners; provided, however, that if the  
1302 adoptee is 14 years of age or older, the adoptee may elect to  
1303 retain his or her current legal name, unless the court  
1304 determines that the adoptee lacks the mental capacity to  
1305 consent. After entry of the final judgment of adoption, the  
1306 adoptee shall be treated as the legal child of the adoptive  
1307 parent or parents and shall have all rights and be subject to  
1308 all the duties arising from that relation, including the  
1309 rights of inheritance through the intestacy laws of the state  
1310 pursuant to Section 43-8-48.

1311           (b) Upon the entry of the final judgment of adoption,  
1312 the biological or legal parents of the adoptee, except for the  
1313 spouse of an adoptive stepparent, are relieved of all parental  
1314 rights and responsibility for the adoptee and will have no  
1315 parental rights over the adoptee. Upon the final judgment of  
1316 adoption, the adoptee loses all rights of inheritance under





## HB101 INTRODUCED

1317 the laws of intestacy pursuant to Section 43-8-48, from or  
1318 through the biological or legal parents of the adoptee, except  
1319 for a biological or legal parent who is the spouse of the  
1320 adopting parent.

1321 §26-10E-29

1322 (a) A final judgment of adoption automatically vacates  
1323 any judgment or order providing a grandparent visitation with  
1324 an adoptee, unless the adoptee has been adopted pursuant to  
1325 Section 26-10E-26 or Section 26-10E-27.

1326 (b) In an adoption case proceeding under Section  
1327 26-10E-26 or Section 26-10E-27, pre-adoption or post-adoption  
1328 visitation rights may be granted, maintained, or modified by  
1329 the court at any time before or after the final judgment of  
1330 adoption is entered if it is in the best interests of the  
1331 adoptee.

1332 (c) In the case of a stepparent adoption under Section  
1333 26-10E-26, no visitation rights may be granted, maintained, or  
1334 modified over the objection of the spouse of the adoptive  
1335 stepparent absent compliance with Section 30-3-4.2. Otherwise,  
1336 Section 30-3-4.2 shall not apply in a case involving an  
1337 adoptee but shall be determined based upon the best interests  
1338 of the adoptee.

1339 (d) An order or judgment regarding grandparent  
1340 visitation made in a case under this section may only be  
1341 vacated or modified by the court that entered the order or  
1342 judgment.

1343 §26-10E-30

1344 (a) The records in adoption proceedings shall be open



## HB101 INTRODUCED

1345 to inspection only to each petitioner or his or her attorney,  
1346 the investigator appointed under Section 26-10E-19, any  
1347 guardian ad litem appointed for the adoptee under Section  
1348 26-10E-21, and any attorney retained by or appointed to  
1349 represent the adoptee. These records shall be open to other  
1350 persons only upon order of court for good cause shown.

1351 (b) All hearings in adoption proceedings shall be  
1352 confidential and shall be held in closed court without  
1353 admittance of any individual other than the parties and their  
1354 counsel, except with leave of court.

1355 (c) Upon entry of the final judgment of adoption, all  
1356 papers, pleadings, and other documents pertaining to the  
1357 adoption shall be sealed, kept as a permanent record of the  
1358 court, and withheld from inspection, except as otherwise  
1359 provided in this section and in Section 22-9A-12(c). No  
1360 individual shall have access to such records except upon order  
1361 of the court in which the final judgment of adoption was  
1362 entered for good cause shown, except as provided in Section  
1363 22-9A-12(c).

1364 (d) When the court enters a final judgment of adoption,  
1365 all licensed agencies or individuals shall send a sealed  
1366 information summary sheet and the non-identifying information  
1367 referred to in subsection (g) in a separate summary sheet to  
1368 the Department of Human Resources. All of the following  
1369 information shall be included:

1370 (1) The birth name and adoptive name of the adoptee.

1371 (2) The date and place of birth of the adoptee, except  
1372 in the case of abandonment.



## HB101 INTRODUCED

1373           (3) The circumstances under which the adoptee came to  
1374 be placed for adoption.

1375           (4) The physical and mental condition of the adoptee,  
1376 insofar as this can be determined by the aid of competent  
1377 medical authority.

1378           (5) The name and last known address, dates of birth,  
1379 and Social Security numbers, if known, of the biological  
1380 parents of the adoptee.

1381           (6) The age of the biological parents at the adoptee's  
1382 birth.

1383           (7) The nationality, ethnic background, race, and  
1384 religious preference of the biological parents of the adoptee.

1385           (8) The educational level of the biological parents of  
1386 the adoptee.

1387           (9) Any pre-adoptive brother or sister relationships of  
1388 the adoptee.

1389           (10) Whether the identity and location of the  
1390 biological father of the adoptee is known or ascertainable.

1391           (e) The Department of Human Resources and the  
1392 investigating agency's adoption records must be kept for a  
1393 minimum term of 75 years. If a licensed child placing agency  
1394 ceases to operate in Alabama, all adoption records of the  
1395 agency, including those of the adoptee, the biological family,  
1396 and the adoptive family, shall be transferred to the  
1397 department.

1398           (f) Except as otherwise provided in this section and in  
1399 Section 22-9A-12(c), all files of the investigating office or  
1400 agency appointed by the court under Section 26-10E-19 shall be



## HB101 INTRODUCED

1401 confidential and shall be withheld from inspection except upon  
1402 order of the court for good cause shown.

1403 (g) Notwithstanding subsection (f), the Department of  
1404 Human Resources or the licensed investigating agency appointed  
1405 by the court pursuant to Section 26-10E-19(b) and (c), shall  
1406 furnish, upon request, to the petitioner or petitioners, the  
1407 biological parents, or an adoptee 19 years of age or older,  
1408 non-identifying information which shall be limited to the  
1409 following:

1410 (1) The health and medical histories of the adoptee's  
1411 biological parents.

1412 (2) The health and medical history of the adoptee.

1413 (3) The adoptee's general family background, including  
1414 ancestral information, without name references or geographical  
1415 designations.

1416 (4) Physical descriptions of the adoptee's biological  
1417 parents.

1418 (5) The length of time the adoptee was in the care and  
1419 custody of anyone other than the petitioner.

1420 (6) The circumstances under which the adoptee came to  
1421 be placed for adoption.

1422 (h) Notwithstanding any other provision herein, if  
1423 either the legal mother or the putative or legal father before  
1424 the adoption has given written consent under oath to  
1425 disclosure of identifying information that is not otherwise  
1426 provided in this section and in Section 22-9A-12(c), the  
1427 Department of Human Resources or a licensed child placing  
1428 agency shall release the identifying information.



## HB101 INTRODUCED

1429           (i) If the court finds that any person has a compelling  
1430 need for non-identifying information not otherwise available  
1431 under subsection (e) which can only be obtained through  
1432 contact with the adoptee, the adoptee's parents, the putative  
1433 father or the legal father of the adoptee before the adoption,  
1434 or the adoptee's adoptive parents, the court shall direct the  
1435 agency or a mutually agreed upon intermediary, to furnish the  
1436 information or to establish contact with the adoptee, the  
1437 adoptee's biological parents, the putative or legal father of  
1438 the adoptee before the adoption, or the adoptive parents of  
1439 the adoptee in order to obtain the information needed without  
1440 disclosure of identifying information to or about the  
1441 applicant. The information then shall be filed with the court  
1442 and released to the applicant within the discretion of the  
1443 court. However, the identity and whereabouts of any  
1444 individuals contacted shall remain confidential.

1445           (j) Notwithstanding any subsection of this section to  
1446 the contrary, when an adoptee reaches 19 years of age, he or  
1447 she may petition the court for the disclosure of identifying  
1448 information which is not otherwise provided for in this  
1449 section or in Section 22-9A-12(c) if a former parent has not  
1450 previously given consent under subsection (h). The court shall  
1451 direct an intermediary to contact the former parents to  
1452 determine if they will consent to the release of identifying  
1453 information. If the former parent or parents consent to the  
1454 release of identifying information the court shall so direct.  
1455 If the former parent or parents are deceased, cannot be found,  
1456 or do not consent to the release of identifying information,



## HB101 INTRODUCED

1457 the court shall weigh the interest and rights of all the  
1458 parties and determine if the identifying information should be  
1459 released without the consent of the former parent.

1460 (k) The court shall have the jurisdiction to issue any  
1461 orders deemed necessary to protect the confidentiality of the  
1462 adoption or adoption proceedings, including, but not limited  
1463 to, any protective order or injunction to prevent or limit the  
1464 dissemination of any information contained in confidential or  
1465 sealed records or any other information identifying the  
1466 adoptee, the parties, or the witnesses in an adoption  
1467 proceeding.

1468 §26-10E-31

1469 (a) Within 10 days of the final judgment being entered,  
1470 the judge or the clerk of the court shall send a copy of the  
1471 certified final judgment of adoption to the Department of  
1472 Human Resources electronically or by United States mail and  
1473 shall send a copy of the certified final judgment of adoption  
1474 to the Office of Vital Statistics electronically or by United  
1475 States mail with the report of adoption in the format  
1476 developed by the Office of Vital Statistics.

1477 (b) Upon receipt of a copy of a certified final  
1478 judgment of adoption from the judge or the clerk of the court  
1479 for an individual born in this state, the Office of Vital  
1480 Statistics shall prepare a new record of birth reflecting the  
1481 registrant's new name and the name of each adoptive parent as  
1482 contained in the final judgment and report of adoption. The  
1483 Office of Vital Statistics shall then place the evidence of  
1484 adoption along with the original certificate of birth in a



## HB101 INTRODUCED

1485 sealed file. A Certificate of Foreign Birth and sealed file  
1486 shall, upon request, be created for a foreign-born individual  
1487 adopted in a court in this state as provided in Section  
1488 22-9A-12(i).

1489 (c) The new certificate of birth will be prepared on  
1490 the form or in the format prescribed by the Office of Vital  
1491 Statistics following the requirements in Section 22-9A-12,  
1492 Section 22-9A-19, and Title 420 of the Alabama Administrative  
1493 Code, or any other rule adopted by the State Board of Health.

1494 (d) There shall be no more than two parents listed on a  
1495 new or amended birth certificate. If two parents are  
1496 designated in the final judgment of adoption, those  
1497 individuals are required to be married to each other at the  
1498 time the final judgment of adoption is entered.

1499 (e) A new certificate of birth shall be prepared by the  
1500 Office of Vital Statistics in accordance with the current laws  
1501 and rules of this state following a final judgment of adoption  
1502 being entered in another state, the District of Columbia, a  
1503 territory of the United States, or a foreign country.

1504 (f) Except as otherwise provided by Section  
1505 22-9A-12(c), after the new birth certificate has been filed,  
1506 the original birth certificate and the evidence of adoption  
1507 are not subject to inspection except upon order of a court of  
1508 competent jurisdiction for good cause shown.

1509 §26-10E-32

1510 Only a parent, a parent of a deceased parent, or a  
1511 relative of the degree of relationship specified in Section  
1512 26-10E-27, the State Department of Human Resources, a licensed



## HB101 INTRODUCED

1513 child placing agency, or an agency approved by the department  
1514 may place, or facilitate the placement of, a minor for  
1515 adoption. No person or entity other than the department or a  
1516 licensed child placing agency shall engage in the business of  
1517 placing, or facilitating the placement of, minors for  
1518 adoption. Any individual or entity making more than two  
1519 separate and distinctive placements of minors who are  
1520 unrelated to the petitioner or petitioners for adoption within  
1521 the preceding 12-month period shall be deemed to be in the  
1522 business of placing minors for adoption. Any other person who  
1523 places, or facilitates the placement of, a minor for adoption  
1524 is, upon the first conviction, guilty of a Class A misdemeanor  
1525 and, upon subsequent convictions, is guilty of a Class C  
1526 felony. This section does not intend to make it unlawful for  
1527 any person not engaged in the business of placing, or  
1528 facilitating the placement of, minors for adoption to give  
1529 advice and assistance to a biological parent in an adoption.  
1530 In making adoption arrangements, potential adopting parents  
1531 and biological parents are entitled to the advice and  
1532 assistance of legal counsel. Surrogate motherhood is not  
1533 intended to be covered by this section.

1534 §26-10E-33

1535 (a) It shall be a Class A misdemeanor for any  
1536 individual or agency to offer to pay money or anything of  
1537 value to a parent for the placement for adoption, for the  
1538 consent to an adoption, or for cooperation in the completion  
1539 of an adoption of his or her minor child. It shall be a Class  
1540 C felony for any individual or agency to pay money or anything





## HB101 INTRODUCED

1541 of value to a parent for the placement of a child for  
1542 adoption, for the consent to an adoption, or for cooperation  
1543 in the completion of an adoption of his or her minor child.  
1544 This section does not make it unlawful, as provided in Section  
1545 26-10E-22, to pay the maternity-connected expenses, medical or  
1546 hospital expenses, and necessary living expenses of the mother  
1547 preceding and during pregnancy-related incapacity, as long as  
1548 the payment is not contingent upon placement of the minor  
1549 child for adoption, consent to the adoption, or cooperation in  
1550 the completion of the adoption.

1551 (b) It shall be a Class C felony for any individual or  
1552 agency to receive any money or other thing of value for  
1553 placing, assisting, or arranging for the placement of a minor  
1554 for adoption. This section is not intended to prohibit  
1555 legitimate charges for medical, legal, prenatal, or other  
1556 professional services.

1557 (c) Surrogate motherhood is not intended to be covered  
1558 by this section.

1559 §26-10E-34

1560 Minors may be brought into Alabama for the purpose of  
1561 adoption as provided in Sections 38-7-15 and 44-2-20, except  
1562 that investigations shall be made as provided in Sections  
1563 26-10E-19 and Section 44-2-20.

1564 §26-10E-35

1565 (a) It shall be unlawful for any individual,  
1566 organization, corporation, partnership, hospital, association,  
1567 any other business entity, or agency to advertise by word of  
1568 mouth or through print, electronic media, including social



## HB101 INTRODUCED

1569 media, telephonically, or otherwise that they will take any of  
1570 the following actions:

1571 (1) Adopt minors or assist in the adoption of minors in  
1572 violation of this chapter.

1573 (2) Place or assist in the placement of minors in  
1574 foster homes, group homes, or institutions in violation of  
1575 this chapter.

1576 (3) Pay or offer money or anything of value to the  
1577 parent or parents of a minor in violation of Sections  
1578 26-10E-32 or 26-10E-33.

1579 (b) Any violation of this section shall be punished as  
1580 a Class A misdemeanor.

1581 §26-10E-36

1582 Except as expressly provided within this chapter, the  
1583 Alabama Rules of Civil Procedure and the Alabama Rules of  
1584 Evidence apply in any case brought under this chapter,  
1585 including cases transferred to a juvenile court.

1586 §26-10E-37

1587 (a) Final judgments of adoptions entered into before  
1588 January 1, 2024, are valid and remain in effect as they  
1589 existed prior to the enactment of this chapter except that  
1590 proceedings after final judgments of adoption entered into  
1591 before the enactment of this chapter will be governed under  
1592 this chapter.

1593 (b) This chapter shall apply to all proceedings related  
1594 to minor adoptions that have not been commenced as of December  
1595 31, 2023.

1596 Section 2. Chapter 10F is added to Title 26 of the Code



## HB101 INTRODUCED

1597 of Alabama 1975, to read as follows:

1598 §26-10F-1

1599 This chapter shall be known and may be cited as the  
1600 Alabama Adult Adoption Code.

1601 §26-10F-2

1602 The definitions in the Alabama Minor Adoption Code,  
1603 provided in Section 26-10E-2, are applicable for this chapter  
1604 and have the same meaning whenever used in this chapter except  
1605 where the context clearly indicates a different meaning.

1606 §26-10F-3

1607 The probate court shall have original and exclusive  
1608 jurisdiction over proceedings brought under this chapter.

1609 §26-10F-4

1610 (a) The petitioner or petitioners, or the adoptee, must  
1611 be a resident of the State of Alabama.

1612 (b) All petitions must be filed in the probate court of  
1613 either of the following counties:

1614 (1) The county in which the adoptee resides, or is in  
1615 military service.

1616 (2) The county in which the petitioner or petitioners  
1617 resides or is in military service.

1618 §26-10F-5

1619 (a) Any adult individual may petition the court to  
1620 adopt an adult as provided in this chapter.

1621 (b) Any married couple, both of whom are adults, may  
1622 jointly petition the court to adopt an adult as provided in  
1623 this chapter. An adult who is married may not petition to  
1624 adopt another adult unless the petition for adoption is filed



## HB101 INTRODUCED

1625 jointly by his or her spouse, unless that spouse is the  
1626 biological or legal parent of the adult sought to be adopted.

1627 (c) Unless the adoptee is biologically related to the  
1628 petitioner or petitioners, any petitioner seeking to adopt  
1629 another adult must be at least 10 years older than the  
1630 adoptee, unless waived by the court for good cause shown.

1631 (d) An adult may only be adopted as provided in this  
1632 chapter and for the establishment of a legal parent-child  
1633 relationship.

1634 §26-10F-6

1635 An adult may be adopted under any of the following  
1636 conditions:

1637 (1) He or she is an individual with a total and  
1638 permanent disability.

1639 (2) He or she has been determined to be an  
1640 incapacitated person as defined in Section 26-2A-20.

1641 (3) He or she consents in writing to be adopted and is  
1642 related in any degree of kinship to the petitioner or  
1643 petitioners, as defined by the intestacy laws of Alabama, or  
1644 is a stepchild or former stepchild by marriage.

1645 (4) He or she had been in a de facto parent-child  
1646 relationship with each petitioner during the minority of the  
1647 adoptee for at least one year preceding the filing of the  
1648 petition and each petitioner has maintained a continuous  
1649 familial relationship with the adoptee. This provision shall  
1650 include, but is not limited to, a foster parent relationship  
1651 with the adoptee.

1652 §26-10F-7



## HB101 INTRODUCED

1653 (a) A consent shall be in a sworn writing and signed by  
1654 the person consenting.

1655 (1) Only the sworn, written consent of a legally  
1656 competent adoptee shall be required.

1657 (2) If the adoptee has been adjudicated incompetent or  
1658 declared to be an incapacitated person as defined in Section  
1659 26-2A-20, the sworn written consent of any legal guardian or  
1660 conservator of the adoptee and a court appointed guardian ad  
1661 litem shall be required. The decision to withhold consent by  
1662 the guardian ad litem may be overruled by the court as  
1663 provided in Section 26-10F-10.

1664 (3) If the court has reason to believe that the adoptee  
1665 may be unable to give consent, the court shall appoint a  
1666 guardian ad litem who shall investigate the adoptee's  
1667 circumstances and that guardian ad litem shall give or  
1668 withhold consent. The decision to withhold consent by the  
1669 guardian ad litem may be overruled by the court as provided in  
1670 Section 26-10F-10.

1671 (4) If the adoptee is married and is incapacitated or  
1672 otherwise unable to consent, the sworn written consent of his  
1673 or her spouse is also required.

1674 (b) A motion to withdraw consent may be filed at any  
1675 time before the dispositional hearing on the adoption  
1676 petition.

1677 §26-10F-8

1678 (a) A petition for adoption shall be filed with the  
1679 clerk of the court. The petition shall be signed and verified  
1680 by each petitioner and shall allege all of the following:



## HB101 INTRODUCED

1681 (1) The full name, date and place of birth, and place  
1682 of residence of each petitioner and, if married, the place and  
1683 date of their marriage.

1684 (2) The date and place of birth of the adoptee.

1685 (3) The birth name of the adoptee, any other names by  
1686 which the adoptee has been known, and the adoptee's proposed  
1687 new name.

1688 (4) Where the adoptee is residing at the time of the  
1689 filing of the petition.

1690 (5) That each petitioner desires to establish a legal  
1691 parent and child relationship between himself or herself and  
1692 the adoptee and that he or she is a fit and proper person able  
1693 to care for and provide for the adoptee's welfare.

1694 (6) The existence and nature of any prior court orders  
1695 known to the petitioner which could affect the adoption of the  
1696 adoptee.

1697 (7) The relationship, if any, of each petitioner to the  
1698 adoptee.

1699 (8) The name and address of any agency, if any,  
1700 providing care for the adoptee.

1701 (9) The names and addresses of all individuals known to  
1702 the petitioner at the time of filing from whom consents or  
1703 notice to the adoption are required.

1704 (10) The name and address of the spouse of the adoptee,  
1705 if any.

1706 (b) The caption of a petition for adult adoption shall  
1707 be styled "In the Matter of the Adoption Petition of \_\_\_\_\_."  
1708 Each petitioner shall be designated in the caption. There



## HB101 INTRODUCED

1709 shall be no more than two petitioners.

1710 (c) The petition shall be accompanied by each of the  
1711 following:

1712 (1) A certified copy of the adoptee's birth  
1713 certificate.

1714 (2) Certified documentation which establishes proof of  
1715 a marriage of the adoptee, if applicable.

1716 (3) Certified documentation which establishes proof of  
1717 a marriage of the petitioners, if applicable.

1718 (4) Should common law marriage be alleged, any  
1719 documentation upon which the petitioners rely to prove the  
1720 existence of the common law marriage.

1721 §26-10F-9

1722 (a) Unless service has been previously waived, notice  
1723 of pendency of the adoption proceeding shall be served by the  
1724 petitioner on each of the following:

1725 (1) Any individual whose consent is required by Section  
1726 26-10F-7.

1727 (2) Any legally appointed custodian or guardian of the  
1728 adoptee.

1729 (3) The spouse of the adoptee, if the adoptee is  
1730 married.

1731 (4) Any biological or legal parent of the adoptee.

1732 (5) Any individual or entity known to any petitioner as  
1733 currently having physical custody of the adoptee, if the  
1734 adoptee is alleged to be an individual with a total and  
1735 permanent disability or alleged to be an incapacitated person.

1736 (6) The Department of Human Resources.



## HB101 INTRODUCED

1737 (7) Any other individual designated by the court.

1738 (b) A copy of the notice for adoption shall be served  
1739 upon those individuals or agencies provided in subsection (a).  
1740 The form for the notice shall be developed jointly by the  
1741 Administrative Office of Courts and the Alabama Law Institute.

1742 (c) Service of the notice shall be made in the  
1743 following manner:

1744 (1) Service of process shall be made in accordance with  
1745 the Alabama Rules of Civil Procedure. If the identity or  
1746 whereabouts of the person whose consent is required under this  
1747 chapter is unknown, the court shall then issue an order  
1748 providing for service by publication, by posting, or by any  
1749 other substituted service.

1750 (2) As to the agency or individual referred to in  
1751 subsection (a)(6), notice shall be by certified mail.

1752 (3) As to any other person or entity for whom notice is  
1753 required under subsection (a)(7), service by certified mail,  
1754 return receipt requested, shall be sufficient. If such service  
1755 cannot be completed after two attempts, the court shall issue  
1756 an order providing for service by publication, by posting, or  
1757 by any other authorized substituted service.

1758 (d) The notice required by this section may be waived  
1759 in writing by the person or entity entitled to receive notice.

1760 (e) Proof of service of the notice on all persons for  
1761 whom notice is required by this section must be filed with the  
1762 court before the dispositional hearing provided in Section  
1763 26-10F-13.

1764 §26-10F-10





## HB101 INTRODUCED

1765 (a) All consents must be acknowledged in open court,  
1766 unless waived by the court for good cause shown.

1767 (b) If a guardian ad litem has been appointed for the  
1768 adult sought to be adopted, the following procedures apply:

1769 (1) The guardian ad litem shall file with the court a  
1770 written report stating the basis for the decision to give or  
1771 withhold consent.

1772 (2) The court shall hold a hearing to allow all parties  
1773 to present evidence as to whether it would be in the best  
1774 interests of the adult person to be adopted by the petitioner  
1775 or petitioners.

1776 (c) If the court determines upon clear and convincing  
1777 evidence that the decision to withhold consent by the guardian  
1778 ad litem is arbitrary and is not in the best interests of the  
1779 incapacitated person, it may proceed to make any other orders  
1780 it deems necessary for the adult person's welfare, including  
1781 granting the petition for adoption.

1782 §26-10F-11

1783 (a) No investigation shall be required in any adult  
1784 adoption unless ordered by the court to determine if the best  
1785 interests of the adoptee will be served by granting the  
1786 petition for adoption. The court shall determine the scope of  
1787 the investigation.

1788 (b) If the probate court in which a petition for the  
1789 adoption of an adult is filed considers an investigation to be  
1790 a necessity, the probate court may order either of the  
1791 following:

1792 (1) The type of investigation that is conducted in an



## HB101 INTRODUCED

1793 adoption of a minor adoptee, pursuant to 26-10E-19.

1794 (2) Any other inquiry which the court considers  
1795 advisable.

1796 (c) Any investigation ordered by the court will be  
1797 performed by the Department of Human Resources or anyone  
1798 appointed by the court who the court deems as qualified and  
1799 appropriate based on the scope of the investigation.

1800 §26-10F-12

1801 (a) Upon the filing of a pleading or a motion by a  
1802 party contesting the adoption, the probate court may not  
1803 transfer the case or any part of the case to another court of  
1804 this state, and shall forthwith set the matter for a contested  
1805 hearing to determine each of the following:

1806 (1) Whether the best interests of the adoptee will be  
1807 served by the adoption.

1808 (2) Whether the adoptee is available for adoption by  
1809 each petitioner and whether each petitioner qualifies to adopt  
1810 the adoptee within the requirements of this chapter.

1811 (3) Whether all necessary consent has been given and,  
1812 if so, the validity of each consent.

1813 (4) Whether an express consent has been or may be  
1814 withdrawn.

1815 (b) The court shall give at least 14 days of notice of  
1816 the contested hearing by United States mail to all parties who  
1817 have appeared before the court unless notice has been waived  
1818 in writing. The party contesting the adoption and each  
1819 petitioner shall be present at the contested hearing. A  
1820 guardian ad litem shall appear and represent the interests of



## HB101 INTRODUCED

1821 the adoptee. Any contestant who is an incapacitated person  
1822 shall also be represented by a guardian ad litem in addition  
1823 to any counsel retained by the contestant.

1824 (c) The court may continue the hearing from time to  
1825 time to permit notice to all parties, or to permit further  
1826 discovery, observation, investigation, or consideration of any  
1827 fact or circumstance affecting the granting or denial of the  
1828 adoption petition. The court may order the investigator  
1829 appointed under Section 26-10F-11, or a court representative  
1830 to investigate allegations underlying the contest or the  
1831 whereabouts of any person entitled to notice of the  
1832 proceeding.

1833 (d) After hearing evidence at a contested hearing, the  
1834 court shall decide the contest as soon as practicable. If it  
1835 is determined by the court that the adoption petition should  
1836 be denied, the court shall enter a final judgment denying the  
1837 contest. The entry of a final judgment denying a contest  
1838 terminates the status of the contestant as a party to the  
1839 adoption proceedings and terminates the contestant's right to  
1840 notice of further adoption proceedings.

1841 (e) At the contested-case hearing, the court shall  
1842 consider any motion of the petitioner or petitioners to obtain  
1843 reimbursement for all reasonable medical and living expenses  
1844 incidental to the care and well-being of the adoptee for the  
1845 time the adoptee resided with the petitioner or petitioners  
1846 where the adoptee is an incapacitated adult. If the adoption  
1847 is denied, the probate court shall, unless just cause is shown  
1848 otherwise by the contestant, order such reimbursement.



## HB101 INTRODUCED

1849 (f) Upon denial of a contest, the court, unless just  
1850 cause is shown otherwise by the contestant, shall issue an  
1851 order for reimbursement to the petitioner or petitioners of  
1852 the legal costs incurred by each petitioner incidental to the  
1853 contest.

1854 §26-10F-13

1855 (a) The petition for adoption shall be set for a  
1856 dispositional hearing within a reasonable period after the  
1857 filing of the petition and all necessary documents, including  
1858 an investigative report if ordered by the court.

1859 (b) The court shall enter an order establishing a date,  
1860 time, and place for the hearing on the petition, and each  
1861 petitioner and the individual to be adopted shall appear at  
1862 the hearing in person. If the court determines that such  
1863 appearance is impossible or impractical, appearance may be  
1864 made by electronic means, upon good cause shown to the court.

1865 (c) At the dispositional hearing, the court shall grant  
1866 a final judgment of adoption if it finds each of the following  
1867 based on clear and convincing evidence:

1868 (1) The adoptee meets one of the qualifications under  
1869 Section 26-10F-6.

1870 (2) The required consents and all other necessary  
1871 documents have been properly executed and have been filed with  
1872 the court. The necessary documents shall include, but are not  
1873 limited to, each of the following:

1874 a. The petition for adoption.

1875 b. All required consents.

1876 c. Proof of service of notice on all persons required



## HB101 INTRODUCED

1877 to receive notice.

1878 d. Marriage certificates of the petitioners and  
1879 adoptee, if applicable.

1880 e. Copies of certified birth certificates or the  
1881 equivalent thereof of each petitioner and adoptee, issued  
1882 within six months of the filing of the petition.

1883 f. The Alabama Report of Adoption Form.

1884 g. Proof of incapacity or total and permanent  
1885 disability, if applicable.

1886 h. Proof of kinship or a de facto parent and child  
1887 relationship pursuant to Section 26-10F-6, if applicable.

1888 i. Any other documentation required by the court.

1889 (3) Any contests have been resolved in favor of the  
1890 petitioner or petitioners.

1891 (4) That each petitioner is a suitable adopting parent  
1892 and desires to establish a legal parent and child relationship  
1893 between himself or herself and the adoptee.

1894 (5) That all parties, to the best of their ability,  
1895 understand the significance and ramifications of the adoption  
1896 and are not acting under duress, coercion, or undue influence.

1897 (6) That the best interests of the adoptee are served  
1898 by the adoption and that there is no reason in the public  
1899 interest or otherwise why the petition should not be granted.

1900 (7) That all other requirements of this chapter have  
1901 been met.

1902 (d) If all the requirements of subsection (b) are met,  
1903 the court may enter its finding in a written final judgment of  
1904 adoption, granting the petition for adoption.



## HB101 INTRODUCED

1905 (e) The final judgment of adoption shall terminate the  
1906 parent child relationship of one or both of the legal parents  
1907 of the adoptee and shall order the substitution of the name of  
1908 each legal parent whose relationship has been terminated on  
1909 the amended birth certificate with the name of each  
1910 petitioner. There shall be no more than two individuals named  
1911 as petitioner.

1912 (f) If the court grants the adoptee's request for a new  
1913 name, the adoptee's new name shall be included in the final  
1914 judgment of adoption and placed on the amended birth  
1915 certificate.

1916 (g) The final judgment of adoption shall further order  
1917 that from the date of the judgment of adoption, the adoptee  
1918 shall be the child of the petitioner or petitioners, and that  
1919 the adoptee shall be accorded the status set forth in Section  
1920 26-10F-16(b).

1921 (h) A final judgment of adoption may not be  
1922 collaterally attacked after the expiration of one year from  
1923 the entry of the final judgment of adoption, and after all  
1924 appeals, if any, except in each of the following situations:

1925 (1) Fraud relating to the adoption proceedings.

1926 (2) The adoptee has been kidnapped.

1927 (3) An adoptive parent subsequent to the final judgment  
1928 of adoption has been convicted of a sexual offense, as  
1929 provided in Section 15-20A-5, involving the adoptee.

1930 §26-10F-14

1931 (a) (1) For the purposes of this chapter, a final  
1932 judgment is one of the following:



## HB101 INTRODUCED

1933           a. The court adjudicates whether a consent has been  
1934 withdrawn.

1935           b. The court adjudicates a contest to an adoption  
1936 pursuant to Section 26-10F-12.

1937           c. The court grants or denies the petition for  
1938 adoption.

1939           (2) A final judgment under this chapter shall be  
1940 entered in accordance with Rule 58 of the Alabama Rules of  
1941 Civil Procedure.

1942           (b) A party may file a post judgment motion challenging  
1943 any final judgment entered under this chapter. Any post  
1944 judgment motion must be filed within 14 days of the entry of  
1945 final judgment and no post judgment motion may remain pending  
1946 for more than 14 days, at which time it shall be deemed denied  
1947 by operation of law.

1948           (c) A party may appeal any final judgment entered by a  
1949 court under this chapter. An appeal may be made to the Alabama  
1950 Court of Civil Appeals by the proper filing of a notice of  
1951 appeal with the clerk of the court entering the final judgment  
1952 within 14 days of the entry of the final judgment, subject to  
1953 Rule 4(a)(3) of the Alabama Rules of Appellate Procedure and  
1954 Rule 77(d) of the Alabama Rules of Civil Procedure.

1955           §26-10F-15

1956           (a) If determined to be in the best interests of the  
1957 adoptee or parties, the court may determine a hearing shall be  
1958 closed.

1959           (b) Upon motion by the adoptee or parties and for good  
1960 cause shown, the court shall have the jurisdiction to issue



## HB101 INTRODUCED

1961 any orders deemed necessary to protect the confidentiality of  
1962 the adoption or adoption proceedings, including, but not  
1963 limited to, any protective order or injunction to prevent or  
1964 limit the dissemination of any information contained in  
1965 confidential or sealed records or any other information  
1966 identifying the adoptee, the parties, or the witnesses in an  
1967 adoption proceeding. Part or all of the record may also be  
1968 sealed pursuant to procedure established by applicable  
1969 statute, rule, and existing case law.

1970 (c) When the court enters a final judgment of adoption,  
1971 the court shall send a copy of the certified final judgment of  
1972 adoption to the Department of Human Resources in the manner  
1973 prescribed by Section 26-10F-17(a).

1974 §26-10F-16

1975 (a) A judgment granting a petition for adoption of an  
1976 adult may order a change in the name of the adoptee unless the  
1977 court finds that the change of name is requested for  
1978 fraudulent or criminal purposes; provided, however, that the  
1979 court may not change the name of an adoptee who is a sex  
1980 offender as provided in Section 15-20A-36.

1981 (b) After the final judgment of adoption, the adoptee  
1982 shall be treated as the legal child of each adopting parent  
1983 and shall have all rights and be subject to all the duties  
1984 arising from that relation, including the right of inheritance  
1985 under the intestacy laws of the state pursuant to Section  
1986 43-8-48.

1987 (c) Upon the final judgment of adoption, the biological  
1988 or legal parents of the adoptee, except for a biological or





## HB101 INTRODUCED

1989 legal parent who is the spouse of the adopting parent, are  
1990 relieved of all parental rights and responsibilities for the  
1991 adoptee. Upon the final judgment of adoption, the adoptee  
1992 loses all rights of inheritance under the laws of intestacy  
1993 pursuant to Section 48-8-48, from or through the biological or  
1994 legal parents of the adoptee, except for a biological or legal  
1995 parent who is the spouse of the adopting parent.

1996 §26-10F-17

1997 (a) Within 10 days of the final judgment being entered,  
1998 the judge or the clerk of the court shall send a copy of the  
1999 certified final judgment of adoption to the Department of  
2000 Human Resources electronically or by United States mail and  
2001 shall send a copy of the certified final judgment of adoption  
2002 to the Office of Vital Statistics electronically or by United  
2003 States mail with the report of adoption in the format  
2004 developed by the Office of Vital Statistics.

2005 (b) Upon receipt of a copy of any certified final  
2006 judgment of adoption from the judge or the clerk of the court  
2007 for an individual born in this state, the Office of Vital  
2008 Statistics shall prepare an amended record of birth reflecting  
2009 the registrant's new name and the name of each adopting parent  
2010 as contained in the final judgment and report of adoption. The  
2011 original birth certificate or evidence of adoption will not be  
2012 sealed unless otherwise ordered by the court granting the  
2013 adoption. If the court orders the documents to be sealed, the  
2014 adoptee may request the original birth certificate and  
2015 evidence of adoption as provided by Section 22-9A-12(c).

2016 (c) Upon receipt of a copy of a certified final



## HB101 INTRODUCED

2017 judgment of adoption from the judge or the clerk of the court  
2018 for a foreign-born individual adopted in a court in this  
2019 state, the Office of Vital Statistics, shall, upon request,  
2020 create a Certificate of Foreign Birth and sealed file as  
2021 provided in Section 22-9A-12(i).

2022 §26-10F-18

2023 Except as expressly provided within this chapter, the  
2024 Alabama Rules of Civil Procedure and the Alabama Rules of  
2025 Evidence apply in any case brought under this chapter.

2026 §26-10F-19

2027 (a) Final judgments of adoptions entered into before  
2028 January 1, 2024, are valid and remain in effect as they  
2029 existed prior to the enactment of this chapter except that  
2030 proceedings after final judgments of adoption entered into  
2031 before the enactment of this chapter will be governed under  
2032 this chapter.

2033 (b) This chapter shall apply to all proceedings related  
2034 to adult adoptions that have not been commenced as of December  
2035 31, 2023.

2036 Section 3. Section 12-15-115.1 is added to the Code of  
2037 Alabama 1975, to read as follows:

2038 §12-15-115.1

2039 Once an adoption proceeding in the juvenile court has  
2040 been completed, a copy of all the juvenile court records,  
2041 including filings and documents originally sent upon transfer  
2042 by the probate court, shall be forwarded to the probate court  
2043 from which the case was transferred. All other filings and  
2044 documents that are retained by the juvenile court pertaining



## HB101 INTRODUCED

2045 to the adoption proceeding shall be sealed, kept as a  
2046 permanent record of the court, and withheld from inspection  
2047 except as otherwise ordered by the court for good cause shown.

2048 Section 4. Section 12-15-133, Code of Alabama 1975, is  
2049 amended to read as follows:

2050 "§12-15-133

2051 (a) The following records, reports, and information  
2052 acquired or generated in juvenile courts concerning children  
2053 shall be confidential and shall not be released to any ~~person~~  
2054 individual, department, agency, or entity, except as provided  
2055 elsewhere in this section:

2056 (1) Juvenile legal files ~~(, including formal documents~~  
2057 as petitions, notices, motions, legal memoranda, orders, and  
2058 decrees ~~).~~

2059 (2) Social records, including but not limited to:  
2060 a. Records of juvenile probation officers.  
2061 b. Records of the Department of Human Resources.  
2062 c. Records of the Department of Youth Services.  
2063 d. Medical records.  
2064 e. Psychiatric or psychological records.  
2065 f. Reports of preliminary inquiries and predisposition  
2066 studies.  
2067 g. Supervision records.  
2068 h. Birth certificates.  
2069 i. Individualized service plans.



## HB101 INTRODUCED

2070 j. Education records, including, but not limited to,  
2071 individualized education plans.

2072 k. Detention records.

2073 l. Demographic information that identifies a child or  
2074 the family of a child.

2075 (3) State Criminal Justice Information System records.

2076 (4) Juvenile criminal sex offender notification  
2077 records.

2078 (b) The records, reports, and information described in  
2079 subsection (a) shall be filed separately from other files and  
2080 records of the court. The juvenile legal files described in  
2081 subdivision ~~(1) of subsection~~ (a) (1) shall be maintained in a  
2082 separate file from all other juvenile records, reports, and  
2083 information.

2084 (c) Subject to applicable federal law, the records,  
2085 reports, and information described in subsection (a) shall be  
2086 open to inspection and copying only by the following, under  
2087 the specified circumstances:

2088 (1) The judge, juvenile probation officers, and  
2089 professional staff assigned to serve or contracted for service  
2090 to the juvenile court.

2091 (2) Representatives of a public or private agency or  
2092 department providing supervision or having legal custody of  
2093 the child.



## HB101 INTRODUCED

2094 (3) The parent~~+~~,except when parental rights have been  
2095 terminated~~+~~, the legal guardian of the child, and the legal  
2096 custodian of the child.

2097 (4) The subject of the proceedings and his or her  
2098 counsel and guardian ad litem. As used in this section, the  
2099 term "counsel" means a child's attorney and an attorney for a  
2100 criminal defendant who was formerly a child subject to  
2101 proceedings in juvenile court.

2102 (5) The judge, probation, prosecutor, and other  
2103 professional staff serving a court handling criminal cases for  
2104 investigating or considering youthful offender applications  
2105 for an individual, who, prior thereto, had been the subject of  
2106 proceedings in juvenile court.

2107 (6) The judge, probation, and other professional staff,  
2108 including the prosecutor and the attorney for the defendant,  
2109 serving a court handling criminal cases for completing  
2110 sentencing standards worksheets and considering the sentence  
2111 upon~~a person~~ an individual charged with a criminal offense  
2112 who, prior thereto, had been the subject of proceedings in  
2113 juvenile court.

2114 (7) The principal of the school in which the child is  
2115 enrolled, or the representative of the principal, upon written  
2116 petition to the juvenile court setting forth the reasons why  
2117 the safety or welfare, or both, of the school, its students,



## HB101 INTRODUCED

2118 or personnel, necessitate production of the information and  
2119 without which the safety and welfare of the school, its  
2120 students, and personnel, would be threatened; provided,  
2121 however, certain information concerning children adjudicated  
2122 delinquent of certain offenses shall be provided as set forth  
2123 in Section 12-15-217.

2124 (8) The Alabama Sentencing Commission, as set forth in  
2125 Section 12-25-11.

2126 (9) In any criminal proceeding, including a criminal  
2127 proceeding in which ~~a person~~ an individual is adjudicated a  
2128 youthful offender, as well as any juvenile proceeding pursuant  
2129 to Section 12-15-105, the prosecutor representing the State of  
2130 Alabama shall have access to all juvenile legal files  
2131 specified in subdivision (a)(1) on that ~~person~~ individual  
2132 regardless of the jurisdiction from which the files originate.

2133 (d) Upon determining a legitimate need for access, and  
2134 subject to applicable federal law, the juvenile court may also  
2135 grant access to specific records, reports, and information to  
2136 a prosecutor representing the State of Alabama, department,  
2137 entity, or agency. The determination of legitimate need by the  
2138 juvenile court shall be based upon a written request filed  
2139 with the juvenile court stating the following:

2140 (1) The reason the ~~person~~ individual, department,  
2141 entity, or agency is requesting the information.



## HB101 INTRODUCED

2142 (2) The use to be made of the information.

2143 (3) The names of those ~~persons~~ individuals or entities  
2144 that will have access to the information.

2145 (e) Petitions, motions, juvenile court notices, or  
2146 dispositions shall be open to inspection and copying by the  
2147 victim.

2148 (f) Subject to applicable confidentiality disclosure  
2149 and case restrictions imposed by federal or state law,  
2150 confidential juvenile legal files, as described in subdivision  
2151 ~~(1) of subsection~~ (a) (1), may be placed on an automated  
2152 information sharing system to be shared with the child's  
2153 counsel and guardian ad litem, prosecutors, departments,  
2154 agencies, or entities who are entitled to access pursuant to  
2155 this section.

2156 (g) Except for the purposes permitted and in the manner  
2157 provided by this section, whoever discloses or makes use of or  
2158 knowingly permits the use of information identifying a child,  
2159 or the family of a child, who is or was under the jurisdiction  
2160 of the juvenile court, where this information is directly or  
2161 indirectly derived from the records of the juvenile court or  
2162 acquired in the course of official duties, upon conviction  
2163 ~~thereof~~, shall be guilty of a Class A misdemeanor under the  
2164 jurisdiction of the juvenile court and also may be subject to  
2165 civil sanctions. Provided, however, that nothing in this



## HB101 INTRODUCED

2166 section shall be construed to prohibit or otherwise limit  
2167 counsel from disclosing confidential information obtained from  
2168 the juvenile court file of the child as needed to investigate  
2169 the case of the client or prepare a defense for that client,  
2170 provided that the disclosure is in furtherance of counsel's  
2171 representation of the party.

2172 (h) Anytime that a child commits a violent offense and  
2173 is adjudicated delinquent, if that child as an adult commits  
2174 the same or a similar offense, the court records pertaining to  
2175 the juvenile offense may be used in the prosecution of the  
2176 adult offense.

2177 (i) This section does not prohibit juvenile courts from  
2178 communicating with and sharing otherwise confidential  
2179 information with any court of this state in accordance with  
2180 Section 26-10E-30 that is currently handling an adoption  
2181 matter or has entered a final adoption judgment regarding a  
2182 juvenile. All records shared between the courts are to remain  
2183 under seal and shall not be shared with the parties or  
2184 released to the public."

2185 Section 5. Section 12-12-35, Code of Alabama 1975,  
2186 relating to the transfer of adoption proceedings, and Chapter  
2187 10A of Title 26, Code of Alabama 1975, commencing with Section  
2188 26-10A-1, relating to adoption, are repealed.

2189 Section 6. Although this bill would have as its purpose  
2190 or effect the requirement of a new or increased expenditure of





## HB101 INTRODUCED

2191 local funds, the bill is excluded from further requirements  
2192 and application under Section 111.05 of the Constitution of  
2193 Alabama of 2022, because the bill defines a new crime or  
2194 amends the definition of an existing crime.

2195 Section 7. This act shall become effective on January  
2196 1, 2024, following its passage and approval by the Governor,  
2197 or its otherwise becoming law.