

By the Committee on Family Law & Children and
Representatives Sanderson, Heyman, Dawson-White, Turnbull,
Brennan, Chestnut, Jacobs, Bullard, Ritter, Kosmas, Bloom and
Burroughs

1 A bill to be entitled
2 An act relating to adoption; amending s.
3 63.022, F.S.; declaring additional legislative
4 intent; amending s. 63.032, F.S.; providing
5 definitions applicable to laws regulating
6 adoptions; renumbering and amending s. 63.207,
7 F.S., relating to out-of-state placement;
8 amending s. 63.042, F.S.; providing who may not
9 adopt; amending s. 63.052, F.S.; providing that
10 prospective adoptive parents become legal
11 custodians of a child pending finalization of
12 adoption; providing for removal of a child from
13 an unsuitable home; amending s. 63.062, F.S.;
14 prescribing certain obligations that must be
15 met by the father of a prospective adoptee in
16 order to preserve his right of consent in an
17 adoption; providing certain requirements with
18 respect to consent; creating s. 63.063, F.S.;
19 providing for notice of adoption proceedings;
20 creating s. 63.064, F.S.; providing for the
21 content of notice and service; creating s.
22 63.065, F.S.; providing termination of rights
23 hearing; creating s. 63.066, F.S.; providing
24 for the identity or location of a parent
25 unknown after filing of notice of adoption;
26 amending s. 63.072, F.S.; providing for waiver
27 of the requirement that the parent must consent
28 to the adoption of a child in certain
29 circumstances; amending s. 63.092, F.S.;
30 revising requirements of the preliminary home
31 study and for certain records checks; amending

1 s. 63.097, F.S.; requiring court approval of
2 certain fees of agencies; amending s. 63.102,
3 F.S.; providing for filing a petition for
4 adoption in the county in which an adoption
5 intermediary is located; amending s. 63.112,
6 F.S.; requiring certain information to be made
7 part of, or to accompany, an adoption petition;
8 amending s. 63.125, F.S.; changing the time for
9 filing the written report of a final home
10 investigation; amending s. 63.132, F.S.;
11 requiring agencies to file reports of
12 expenditures and receipts; amending s. 63.162,
13 F.S.; requiring intermediaries and agencies to
14 retain certain records and to provide notice
15 prior to closing of the location of said
16 records; amending s. 63.182, F.S.; revising
17 time period for appeal; amending s. 63.085,
18 F.S.; correcting a cross reference; amending s.
19 63.212, F.S.; prohibiting persons from
20 providing false or misleading information about
21 themselves when providing information for
22 completion of an adoption placement;
23 prohibiting birth parents from contracting
24 with, or accepting benefits from, more than one
25 agency or intermediary; providing penalties;
26 revising fees which intermediaries may charge;
27 correcting cross references; creating s.
28 63.215, F.S.; providing for preplanned adoption
29 arrangements; amending s. 39.01, F.S.;
30 correcting a cross reference; providing an
31 effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 63.022, Florida Statutes, 1996
4 Supplement, is amended to read:

5 63.022 Legislative intent.--

6 (1) It is the intent of the Legislature to protect and
7 promote the well-being of persons being adopted and their
8 birth and adoptive parents and to provide to all children who
9 can benefit by it a permanent family life, and, whenever
10 possible, to maintain sibling groups.

11 (2) It is the intent of the Legislature that, in all
12 matters coming before the court pursuant to this chapter, the
13 court shall only enter such orders as protect and promote the
14 best interest of the adoptee.

15 (3) It is the intent of the Legislature that closure
16 be achieved as quickly as possible in an adoptee's life by the
17 establishment of rights, interests, and obligations of all
18 parties and that uncertainty with regard to these rights,
19 interests, and duties be eliminated as soon as possible.

20 (4) It is the intent of the Legislature that planning
21 for the future of the adoptee be facilitated and that the
22 adoptee, as soon as possible, be given a permanent status.

23 (5) It is the intent of the Legislature to ensure the
24 integrity of adoption.

25 (6) It is the intent of the Legislature that notice of
26 a proposed adoption of an infant be made at the earliest
27 possible time and, specifically, before the birth of the child
28 when possible.

29 (7)(2) The basic safeguards intended to be provided by
30 this chapter ~~act~~ are that:

31

1 (a) The child is legally free for adoption and said
2 adoption is finalized by the court as expeditiously as
3 possible.

4 (b) The required persons consent to the adoption or
5 the parent-child relationship is terminated by judgment of the
6 court as expeditiously as possible.

7 (c) The required social studies are completed and the
8 court considers the reports of these studies prior to judgment
9 on adoption petitions.

10 (d) All placements of minors for adoption shall be ~~are~~
11 reported to the court Department of Health and Rehabilitative
12 Services through the filing of an intent to place notice.

13 (e) A sufficient period of time elapses during which
14 the child has lived within the proposed adoptive home under
15 the guidance of the department, ~~or~~ a licensed child-placing
16 agency, or a licensed professional pursuant to s. 61.20(2).

17 (f) All expenditures by intermediaries and agencies
18 placing, and persons independently adopting, a minor are
19 reported to the court and become a permanent record in the
20 file of the adoption proceedings.

21 (g) Social and medical information concerning the
22 child and the birth parents is furnished by the birth parent
23 when available and filed with the consent to the adoption when
24 a minor is placed for adoption ~~by an intermediary.~~

25 (h) A new birth certificate is issued after entry of
26 the adoption judgment.

27 (i) At the time of the hearing the court is authorized
28 to order temporary substitute care for the minor if ~~when~~ it
29 determines that the prospective adoption home is unsuitable
30 pending formalization of the adoption ~~minor is in an~~
31 ~~unsuitable home.~~

1 (j) The records of all proceedings concerning custody
2 and adoption of children are confidential and exempt from the
3 provisions of s. 119.07(1), except as provided in s. 63.162.

4 (k) Each birth parent, each adoptive parent ~~The birth~~
5 ~~parent, the adoptive parent,~~ and the child receive the same or
6 similar safeguards, guidance, counseling, and supervision in
7 any placement for an intermediary adoption as they receive in
8 an agency or department adoption.

9 ~~(l) In all matters coming before the court pursuant to~~
10 ~~this act, the court shall enter such orders as it deems~~
11 ~~necessary and suitable to promote and protect the best~~
12 ~~interests of the person to be adopted.~~

13 Section 2. Section 63.032, Florida Statutes, is
14 amended to read:

15 (Substantial rewording of section. See
16 s. 63.032, F.S., for present text.)

17 63.032 Definitions.--For the purposes of this chapter,
18 the term:

19 (1) "Abandoned" means a situation in which the parent
20 or legal custodian of a child, while being able, makes no
21 provision for the child's support and makes no effort to
22 communicate with the child, which situation is sufficient to
23 evince a willful rejection of parental obligations. If, in the
24 opinion of the court, the efforts of such parent or legal
25 custodian to support and communicate with the child are only
26 marginal efforts that do not evince a settled purpose to
27 assume all parental duties, the court may declare the child to
28 be abandoned. In making this decision, the court may consider
29 the conduct of a father towards the child's mother during her
30 pregnancy. The incarceration of a parent, custodian, or person

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1 responsible for the child's welfare does not constitute a bar
2 to a finding of abandonment.

3 (2) "Adoption" means the act of creating the legal
4 relationship between parent and child where it did not exist,
5 thereby declaring the child to be legally the child of an
6 adoptive parent and his or her heir at law and entitled to all
7 the rights and privileges and subject to all the obligations
8 born to such adoptive parents.

9 (3) "Adult" means a person who is not a minor.

10 (4) "Agency" means any child-placing agency licensed
11 by the department pursuant to s. 63.202 to place minors for
12 adoption.

13 (5) "Best interest of the person to be adopted" means
14 that the adoption will protect and promote the health, safety,
15 physical, and psychological well-being of the prospective
16 adoptee. This consideration shall not include a comparison
17 between the attributes of the parents and those of any persons
18 providing a present or potential placement for the child. For
19 the purpose of determining the manifest best interests of the
20 child, the court shall consider and evaluate all relevant
21 factors, including, but not limited to:

22 (a) The ability and disposition of the parent or
23 parents to provide the child with food, clothing, medical
24 care, or other remedial care recognized and permitted under
25 state law instead of medical care and other material needs of
26 the child.

27 (b) The capacity of the parent or parents to care for
28 the child to the extent that the child's health and well-being
29 will not be endangered upon the child's return home.

30 (c) The present mental and physical health needs of
31 the child and such future needs of the child to the extent

1 that such future needs can be ascertained based on the present
2 condition of the child.

3 (d) The love, affection, and other emotional ties
4 existing between the child and the child's parent or parents,
5 siblings, and other relatives, and the degree of harm to the
6 child that would arise from the termination of parental rights
7 and duties.

8 (e) The child's ability to form a significant
9 relationship with a parental substitute and the likelihood
10 that the child will enter into a more stable and permanent
11 family relationship as a result of permanent termination of
12 parental rights and duties.

13 (f) The length of time that the child has lived in a
14 stable, satisfactory environment and the desirability of
15 maintaining continuity.

16 (g) The depth of the relationship existing between the
17 child and the present custodian.

18 (h) The reasonable preferences and wishes of the
19 child, if the court deems the child to be of sufficient
20 intelligence, understanding, and experience to express a
21 preference.

22 (i) The recommendations for the child provided by the
23 child's guardian, attorney ad litem, or legal representative.

24 (6) "Child" means a son or daughter, whether by birth
25 or adoption.

26 (7) "Consent" means the voluntary surrender of
27 parental rights or the powers of a guardian for the purpose of
28 a minor adoption.

29 (8) "Court" means any circuit court of this state and,
30 when the context requires, the court of any state that is
31 empowered to grant petitions for adoption.

1 (9) "Department" means the Department of Children and
2 Family Services.

3 (10) "Intermediary" means an attorney or physician who
4 is licensed or authorized to practice in this state or, for
5 the purpose of adoptive placements of children from out of
6 state with citizens of this state, a child-placing agency
7 licensed in another state that is qualified by the department.

8 (11) "Minor" means a person under the age of 18 years.

9 (12) "Person" includes a natural person, corporation,
10 government or governmental subdivision or agency, business
11 trust, estate, trust, partnership, or association, and any
12 other legal entity.

13 (13) "Suitability of the intended placement" includes
14 the fitness of the intended placement, with primary
15 consideration being given to the best interest of the child;
16 the fitness and capabilities of the adoptive parent or parents
17 to function as parent or parents for a particular child; and
18 the compatibility of the child with the home in which the
19 child is intended to be placed.

20 (14) "To place" or "placement" means the process of a
21 person placing the child for adoption, and the prospective
22 parents receiving and adopting the child, and includes all
23 actions by any person or agency participating in the process
24 in any manner whatsoever.

25 Section 3. Section 63.207, Florida Statutes, is
26 renumbered as section 63.0323, Florida Statutes, and amended
27 to read:

28 63.0323 ~~63.207~~ Out-of-state placement.--

29 (1) Unless the child is to be placed with a relative
30 within the third degree or with a stepparent, no person except
31 an intermediary, an agency, or the department shall+

1 (a) take or send a child out of the state for the
2 purpose of placement for adoption; ~~or~~

3 ~~(b) Place or attempt to place a child for the purpose~~
4 ~~of adoption with a family who primarily lives and works~~
5 ~~outside Florida in another state. An intermediary may place~~
6 ~~or attempt to place a child for adoption in another state only~~
7 ~~if the child is a special needs child as that term is defined~~
8 ~~in s. 409.166. If an intermediary is acting under this~~
9 ~~subsection, the intermediary shall file a petition for~~
10 ~~declaratory statement pursuant to s. 63.102 for prior approval~~
11 ~~of fees and costs. The court shall review the costs pursuant~~
12 ~~to s. 63.097. The petition for declaratory statement must be~~
13 ~~converted to a petition for an adoption upon placement of the~~
14 ~~child in the home. The circuit court in this state must~~
15 ~~retain jurisdiction over the matter until the adoption becomes~~
16 ~~final. The adoptive parents must come to this state to have~~
17 ~~the adoption finalized. Violation of the order subjects the~~
18 ~~intermediary to contempt of court and to the penalties~~
19 ~~provided in s. 63.212.~~

20 (2) An agency or intermediary may not counsel a birth
21 mother to leave the state for the purpose of giving birth to a
22 child outside the state in order to secure a fee in excess of
23 that permitted under s. 63.097 when it is the intention that
24 the child is to be placed for adoption outside the state.

25 (3) When applicable, the Interstate Compact on the
26 Placement of Children authorized in s. 409.401 shall be used
27 in placing children outside the state for adoption.

28 Section 4. Section 63.042, Florida Statutes, is
29 amended to read:

30 63.042 Who may be adopted; who may adopt; who may not
31 adopt.--

- 1 (1) Any person, a minor or an adult, may be adopted.
- 2 (2) The following persons may adopt:
- 3 (a) A husband and wife jointly;
- 4 (b) An unmarried adult, including the birth parent of
- 5 the person to be adopted;
- 6 (c) The unmarried minor birth parent of the person to
- 7 be adopted; or
- 8 (d) A married person without the other spouse joining
- 9 as a petitioner, if the person to be adopted is not his or her
- 10 spouse, and if:
- 11 1. The other spouse is a parent of the person to be
- 12 adopted and consents to the adoption; or
- 13 2. The failure of the other spouse to join in the
- 14 petition or to consent to the adoption is excused by the court
- 15 for reason of prolonged unexplained absence, unavailability,
- 16 incapacity, or circumstances constituting an unreasonable
- 17 withholding of consent.
- 18 (3) No person eligible to adopt under this statute may
- 19 adopt if that person is a homosexual.
- 20 (4) No person eligible under this section shall be
- 21 prohibited from adopting solely because such person possesses
- 22 a physical disability or handicap, unless it is determined by
- 23 the department or the licensed child-placing agency that such
- 24 disability or handicap renders such person incapable of
- 25 serving as an effective parent.
- 26 (5) A person who may otherwise be eligible to adopt a
- 27 minor under this chapter may not adopt if that person is
- 28 terminally ill, unless the court finds by clear and convincing
- 29 evidence that it is not detrimental to the person to be
- 30 adopted to grant said adoption.
- 31

1 (6) No prospective adoptive parent may obtain custody
2 of a child under this chapter if that person has been
3 convicted of domestic abuse, child abuse, or a felony
4 involving violence against a person.

5 (7) No prospective adoptive parent may obtain custody
6 of a child under this chapter unless the court determines by
7 clear and convincing evidence that it is in the best interest
8 of the child.

9 Section 5. Subsection (1) of section 63.052, Florida
10 Statutes, is amended to read:

11 63.052 Guardians designated; proof of commitment.--

12 (1) For minors who have been placed for adoption with
13 and permanently committed to an agency, the agency shall be
14 the guardian of the person of the child; for those who have
15 been placed for adoption with and permanently committed to the
16 department, the department shall be the guardian of the person
17 of the child. For minors who have been voluntarily
18 surrendered to an intermediary through an execution of consent
19 to adoption, the intermediary shall be responsible for the
20 child until the time a court orders preliminary approval of
21 placement of the child in the prospective adoptive home, at
22 which time the prospective adoptive parents become the legal
23 custodians ~~guardians~~ pending finalization of adoption. This
24 custody is subject to the continued suitability of the home.
25 The adoptee may be removed at any time and the adoption
26 dismissed before the finalization of adoption upon the order
27 of the court for good cause shown.

28 Section 6. Section 63.062, Florida Statutes, is
29 amended to read:

30 63.062 Persons required to consent to adoption.--

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1 (1)(a) Unless consent is excused by the court, a
2 petition to adopt a minor may be granted only if written
3 consent has been executed after the birth of the minor by:

4 1.(a) The mother of the minor.

5 2.(b) The father of the minor, if:

6 a.1. The minor was conceived or born while the father
7 was married to the mother and is the biological father of the
8 child.

9 b.2. The minor is his child by adoption.

10 c.3. The minor has been established by court
11 proceeding to be his child.

12 d.4. He has filed a petition to establish paternity
13 pursuant to chapter 742; or has responded to a notice of
14 adoption pursuant to s. 63.064 or he has acknowledged in
15 writing, signed in the presence of a competent witness, that
16 he is the father of the minor and has filed such
17 acknowledgment with the Office of Vital Statistics of the
18 Department of Health and Rehabilitative Services.

19 e.5. He has provided the minor, and the minor's mother
20 during pregnancy ~~child~~ with support in a repetitive, customary
21 manner, taking into consideration the needs of the mother and
22 the financial ability of the father.

23 3.(c) The minor, if more than 12 years of age, unless
24 the court in the best interest of the minor dispenses with the
25 minor's consent.

26 (b) Consent shall contain language that the birth
27 parents have the right to see an attorney, the right to hold,
28 care for, and feed the child; the right to place the child in
29 foster care or family care, or the right to take the child
30 home; the right to know what community resources are available
31 should she not go through with the adoption.

1 (2) The court may require that consent be executed by:

2 (a) Any person lawfully entitled to custody of the
3 minor; or

4 (b) The court having jurisdiction to determine custody
5 of the minor, if the person having physical custody of the
6 minor has no authority to consent to the adoption.

7 (3)(a) The petitioner or the agency or intermediary
8 acting on behalf of the petitioner must make good faith and
9 diligent efforts to notify, and obtain written consent from,
10 the persons required to consent to adoption within 30 ~~60~~ days
11 after filing the petition for adoption. These efforts must at
12 least ~~may~~ include conducting interviews and record searches to
13 locate those persons, including verifying information related
14 to location of residence, employment, service in the Armed
15 Forces, vehicle registration in this state, and corrections
16 records. If said good faith and diligent efforts by the
17 petitioner or the agency or intermediary acting on behalf of
18 the petitioner do not locate additional parties whose consent
19 to the adoption may be required, and no additional parties
20 come forward and acknowledge paternity and gain standing to
21 challenge the adoption and service of process and notice
22 pursuant to the rules of civil procedure have been given, the
23 court shall terminate the unknown party's interest and allow
24 the adoption to proceed to finalization. If the party appears
25 after the finalization of the adoption, the adoption order
26 shall remain enforceable, provided that the notice was given
27 and the rules of civil procedure have been complied with.

28 (b) Efforts to notify identifiable but not locatable
29 individuals as described in paragraph (a) may include
30 conducting interviews and searching records to locate such
31 persons. An affidavit of diligent search and inquiry shall

1 provide that inquiry was made with reference to the following
2 records in order to identify the present whereabouts of such
3 persons:
4 1. Local telephone directory or directory assistance;
5 2. United States Post Office;
6 3. Department of Highway Safety and Motor Vehicles;
7 4. Utility companies;
8 5. Friends and family;
9 6. Law enforcement agencies, including any sheriff or
10 police departments, or other appropriate county or municipal
11 officer;
12 7. Public records, including those provided by the
13 clerk of circuit court and the tax collector;
14 8. Office of Vital Statistics;
15 9. Past employers, unions, and regulatory agencies;
16 10. Hospitals;
17 11. Military records; or
18 12. A background search performed by the department.
19 (4) If parental rights to the minor have previously
20 been terminated, a licensed child-placing agency or the
21 department with which the child has been placed for subsequent
22 adoption may provide consent to the adoption. In such case,
23 no other consent is required.
24 (5) A petition to adopt an adult may be granted if:
25 (a) Written consent to adoption has been executed by
26 the adult and the adult's spouse, if any.
27 (b) Written consent to adoption has been executed by
28 the birth parents, if any, or proof of service of process has
29 been filed, showing notice has been served on the parents as
30 provided in this section.
31

1 Section 7. Section 63.063, Florida Statutes, is
2 created to read:

3 63.063 Notice of adoption.--Notice shall be provided
4 to:

5 (1) Any person whose consent to the adoption is
6 required by this chapter who has not consented.

7 (2) The mother of the minor, unless her parental
8 rights have been terminated or she has executed a voluntary
9 consent which contains a written waiver of notice of the
10 adoption proceedings.

11 (3) Any man, who:

12 (a) Is or has been married to the mother of the minor
13 and the child was conceived or born during the marriage and he
14 is the biological father of the child or has filed a paternity
15 action pursuant to s. 742.091;

16 (b) Adopted the minor;

17 (c) Has been established by court proceeding to be the
18 father of the child; or

19 (d) Has provided the minor and the minor's mother
20 during pregnancy with support in a repetitive, customary
21 manner taking into consideration the needs of the mother.

22 (4) Any party who is attempting to revoke a consent on
23 the ground that it was obtained by fraud or duress.

24 (5) Any individual who claims to be or is named as the
25 father or possible father of the adoptee or a person who the
26 birth mother has reason to believe may be the father of the
27 child.

28 (6) Any grandparent entitled to priority for adoption
29 under s. 63.0425.

30 (7) A prospective male parent is deemed to have notice
31 at the time of sexual intercourse and a lack of knowledge

1 shall not be a defense to contesting the adoption of a child
2 conceived.

3 Section 8. Section 63.064, Florida Statutes, is
4 created to read:

5 63.064 Content of notice; service.--A notice required
6 by s. 63.063 shall be given as soon as possible to any
7 interested party:

8 (1) Before, if possible, or after the birth of the
9 child, by the agency or intermediary, or by the Department of
10 Children and Family Services the interested party shall be
11 notified that the birth mother is considering an adoptive
12 placement for the child.

13 (2) Consent by the interested party shall be implied
14 if:

15 (a) The party who is a birth father fails to provide
16 support, fails to respond to the notice of adoption, and fails
17 to acknowledge paternity pursuant to chapter 742.

18 (b) The party is an interested party other than a
19 birth parent and fails to file a timely objection to the
20 adoption after service of the notice of adoption.

21 (3) Notice of adoption must be given pursuant to the
22 rules of civil procedure. The notice shall be in
23 substantially the following form:

24
25 NOTICE OF ADOPTION
26 (Name) (interested party) is hereby notified that an
27 intent to adopt a child born to on the day of
28 19 , which has been filed in the office of the Clerk of the
29 Court of County State Date
30 Address
31 Telephone #

1 Case # _____

2 If you wish to contest this adoption, you must file a
3 motion in the above-named court after receipt of this notice
4 objecting to this adoption. If you do not file a motion to
5 contest the adoption after service of this notice, the
6 above-named court will hear and determine the Petition for
7 Adoption and your consent will be irrevocably implied.

8
9 FAILURE TO RESPOND TO THIS NOTICE SHALL CONSTITUTE CONSENT TO
10 THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN)

11
12 _____
13 Petitioner's Attorney

14
15 _____
16 Petitioner's Attorney's Address

17
18 (4) The notice as set forth in this section may be
19 waived in writing before or after the birth of the child by
20 any interested party.

21 (5) The notice under this section shall be served as
22 prescribed by the rules of civil procedure and service of
23 process must be made as specified by law or civil actions.

24 (6) If a person required to be served with notice as
25 prescribed in paragraph (5) cannot be served, notice of
26 adoption must be given as prescribed by the rules of civil
27 procedure, and service of process must be made as specified by
28 law or civil actions.

29 (7) The birth parents shall have an obligation to
30 provide an address and telephone number and shall have a
31 continuing responsibility to provide a change of address and

1 telephone number within 10 days of the change to the
2 intermediary or agency, until a final judgment of adoption is
3 entered.

4 (8) The court shall have the authority to appoint an
5 attorney ad litem for the unlocatable birth father in order to
6 perform diligent search and inquiry to locate said birth
7 father in order to obtain consent.

8 Section 9. Section 63.065, Florida Statutes, is
9 created to read:

10 63.065 Termination of rights hearing.--Before the
11 court may terminate parental rights, in addition to the other
12 requirements set forth in this part, the court shall conduct a
13 hearing to determine the rights of interested parties as soon
14 as possible.

15 (1) Notice of the date, time, and place of the hearing
16 must be sent to anyone responding to the notice of adoption in
17 s. 63.064.

18 (2) The time set for this hearing shall be after the
19 birth of the child.

20
21 The document containing the notice to respond or appear must
22 contain, in type at least as large as the balance of the
23 document, the following or substantially similar language:

24 "FAILURE TO RESPOND TO THIS NOTICE OR TO APPEAR AT THIS
25 HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL
26 RIGHTS OF THIS CHILD (OR THESE CHILDREN)."

27 (3) Notice as prescribed by this section may be
28 waived, in the discretion of the judge, with regard to any
29 person to whom notice must be given under this subsection if
30 the person executes, before two witnesses and a notary public
31 or other officer authorized to take acknowledgments, a written

1 consent to the adoption of the child to an intermediary,
2 licensed child-placing agency, or the department.

3 (4) If the person served with notice under this
4 section fails to respond to the notice of adoption or appear
5 at the hearing, the failure to respond or appear shall
6 constitute consent for termination of parental rights by the
7 person given notice.

8 Section 10. Section 63.066, Florida Statutes, is
9 created to read:

10 63.066 Identity or location of parent unknown after
11 filing of notice of adoption.--

12 (1) If the identity or location of a parent is unknown
13 and a notice of adoption is filed, the court shall conduct the
14 following inquiry:

15 (a) Whether the mother of the child was married at the
16 probable time of conception of the child or at the time of
17 birth of the child.

18 (b) Whether the mother was cohabiting with a male at
19 the probable time of conception of the child.

20 (c) Whether the mother has received payments or
21 promises of support with respect to the child or because of
22 her pregnancy from a man who claims to be the father.

23 (d) Whether the mother has named any man as the father
24 on the birth certificate of the child or in connection with
25 applying for or receiving public assistance.

26 (e) Whether any man has acknowledged or claimed
27 paternity of the child in a jurisdiction in which the mother
28 resided at the time of or since conception of the child, or in
29 which the child has resided or resides.

30
31

1 (2) The information required in subsection (1) may be
2 supplied to the court in the form of a sworn affidavit by a
3 person having personal knowledge of the facts.

4 (3) If the inquiry under subsection (1) identifies any
5 person as a parent or prospective parent, the court shall
6 require notice of the hearing to be provided to that person.

7 (4) If the inquiry under subsection (1) fails to
8 identify any person as a parent or prospective parent, the
9 court shall so find and may proceed without further notice.

10 (5) If the inquiry under subsection (1) identifies a
11 parent or prospective parent, and that person's location is
12 unknown, the court shall direct a diligent search be performed
13 for that person before scheduling a hearing to terminate
14 rights.

15 Section 11. Section 63.072, Florida Statutes, is
16 amended to read:

17 63.072 Persons whose consent to an adoption may be
18 waived.--The court may excuse the consent of the following
19 individuals to an adoption:

20 (1) A parent who has deserted a child without
21 affording means of identification or who has abandoned a child
22 and has not complied with s. 63.064.†

23 (2) A parent who has failed to acknowledge paternity
24 pursuant to chapter 742 after the notice of adoption is served
25 upon him, so long as the notice provisions of s. 63.063 have
26 been met.

27 (3) A parent who has not provided the minor and the
28 minor's mother during pregnancy with support in a repetitive,
29 customary manner. The court may consider the lack of
30 emotional and financial support in making this determination.

31

1 (4) A parent that the court determines to be unfit to
2 take custody of a child. A history of domestic violence or
3 child abuse shall be a rebuttable presumption of unfitness.

4 (5)~~(2)~~ A parent whose parental rights have been
5 terminated by order of a court of competent jurisdiction.~~†~~

6 (6)~~(3)~~ A parent judicially declared incompetent for
7 whom restoration of competency is medically improbable.~~†~~

8 (7)~~(4)~~ A legal guardian or lawful custodian of the
9 person to be adopted, other than a parent, who has failed to
10 respond in writing to a request for consent for a period of 30
11 ~~60~~ days or who, after examination of his or her written
12 reasons for withholding consent, is found by the court to be
13 withholding his or her consent unreasonably.~~† or~~

14 (8)~~(5)~~ The spouse of the person to be adopted, if the
15 failure of the spouse to consent to the adoption is excused by
16 reason of prolonged, unexplained absence, unavailability,
17 incapacity, or circumstances that are found by the court to
18 constitute unreasonable withholding of consent.

19 Section 12. Section 63.092, Florida Statutes, is
20 amended to read:

21 63.092 Report to the court of intended placement by an
22 intermediary; preliminary study.--

23 (1) REPORT TO THE COURT.--The intermediary must report
24 any intended placement of a minor for adoption with any person
25 not related within the third degree or a stepparent if the
26 intermediary has knowledge of, or participates in, such
27 intended placement. The report must be made to the court
28 before the minor is placed in the home.

29 (2) PRELIMINARY HOME STUDY.--Before placing the minor
30 in the intended adoptive home, a preliminary home study must
31 be performed by a licensed child-placing agency, a licensed

1 professional, or agency described in s. 61.20(2), unless the
2 petitioner is a stepparent, a spouse of the birth parent, or a
3 relative. The preliminary study shall be completed within 30
4 days after the receipt by the court of the intermediary's
5 report, but in no event may the child be placed in the
6 prospective adoptive home prior to the completion of the
7 preliminary study unless ordered by the court. If the
8 petitioner is a stepparent, a spouse of the birth parent, or a
9 relative, the preliminary home study may be required by the
10 court for good cause shown. The department is required to
11 perform the preliminary home study only if there is no
12 licensed child-placing agency, licensed professional, or
13 agency described in s. 61.20(2), in the county where the
14 prospective adoptive parents reside. The preliminary home
15 study must be made to determine the suitability of the
16 intended adoptive parents and may be completed prior to
17 identification of a prospective adoptive child. A favorable
18 preliminary home study is valid for 1 year after the date of
19 its completion. A child must not be placed in an intended
20 adoptive home before a favorable preliminary home study is
21 completed unless the adoptive home is also a licensed foster
22 home under s. 409.175. The preliminary home study must
23 include, at a minimum:

24 (a) An interview with the intended adoptive parents;

25 (b) Records checks of the department's central abuse
26 registry under chapter 415 and nationwide, statewide, and
27 local criminal, and incident reports, abuse records
28 ~~correspondence checks through the Department of Law~~
29 ~~Enforcement~~ on the intended adoptive parents. If adoptive
30 parents have not resided in this state for a period of 1 year,
31 and are now residents of Florida, a diligent search and

1 background check is to be performed in the state of their last
2 residence;

3 (c) An assessment of the physical environment of the
4 home;

5 (d) An assessment of the physical health of the
6 adoptive applicants including, but not limited to, human
7 immunodeficiency virus testing;

8 ~~(e)(d)~~ A determination of the financial security of
9 the intended adoptive parents;

10 ~~(f)(e)~~ Documentation of counseling and education of
11 the intended adoptive parents on adoptive parenting;

12 ~~(g)(f)~~ Documentation that information on adoption and
13 the adoption process has been provided to the intended
14 adoptive parents;

15 ~~(h)(g)~~ Documentation that information on support
16 services available in the community has been provided to the
17 intended adoptive parents;

18 ~~(i)(h)~~ A copy of the signed statement required by s.
19 63.085; and

20 ~~(j)(i)~~ A copy of the written acknowledgment required
21 by s. 63.085(1);

22 (k) An interview with both the birth parents, when
23 possible, and documentation of that interview; and

24 (l) A statement signed by the birth mother and birth
25 father when possible that they understand the finality of
26 their consent to adoption and that the said consent is given
27 freely and voluntarily and without coercion or duress from any
28 person.

29
30 If the preliminary home study is favorable, a minor may be
31 placed in the home pending entry of the judgment of adoption.

1 A minor may not be placed in the home if the preliminary home
2 study is unfavorable. If the preliminary home study is
3 unfavorable, the intermediary or petitioner may, within 20
4 days after receipt of a copy of the written recommendation,
5 petition the court to determine the suitability of the
6 intended adoptive home. A determination as to suitability
7 under this subsection does not act as a presumption of
8 suitability at the final hearing. In determining the
9 continued suitability of the intended adoptive home for
10 permanent placement, the court must consider the totality of
11 the circumstances in the home.

12 Section 13. Subsection (1) of section 63.097, Florida
13 Statutes, is amended to read:

14 63.097 Fees.--

15 (1) APPROVAL OF FEES TO AGENCIES OR
16 INTERMEDIARIES.--Any fee over ~~\$2,000~~\$1,000 and those costs as
17 set out in s. 63.212(1)(d) over ~~\$3,000~~\$2,500, paid to an
18 agency or intermediary other than actual, documented medical
19 costs, court costs, and hospital costs must be approved by the
20 court prior to assessment of the fee by the agency or
21 intermediary and upon a showing of justification for the
22 larger fee.

23 Section 14. Subsection (2) of section 63.102, Florida
24 Statutes, is amended to read:

25 63.102 Filing of petition; venue; proceeding for
26 approval of fees and costs.--

27 (2) A petition for adoption or for a declaratory
28 statement as to the adoption contract shall be filed in the
29 county where the petitioner or petitioners or the child
30 resides or where the agency or intermediary through ~~in~~ which
31

1 the child has been placed is located within 30 days after
2 placement.

3 Section 15. Subsections (1) and (2) of section 63.112,
4 Florida Statutes, are amended to read:

5 63.112 Petition for adoption; description; report or
6 recommendation, exceptions; mailing.--

7 (1) A sufficient number of copies of the petition for
8 adoption shall be signed and verified by the petitioner and
9 filed with the clerk of the court so that service may be made
10 under subsection (4) and shall state:

11 (a) The date and place of birth of the person to be
12 adopted, if known;

13 (b) The name to be given to the person to be adopted;

14 (c) The date petitioner acquired custody of the minor
15 and the name of the person placing the minor;

16 (d) The full name, age, and place and duration of
17 residence of the petitioner;

18 (e) The marital status of the petitioner, including
19 the date and place of marriage, if married, and divorces, if
20 any;

21 (f) The facilities and resources of the petitioner,
22 including those under a subsidy agreement, available to
23 provide for the care of the minor to be adopted;

24 (g) A description and estimate of the value of any
25 property of the person to be adopted;

26 (h) The name and address, if known, of any person
27 whose consent to the adoption is required, but who has not
28 consented, and facts or circumstances that excuse the lack of
29 consent; ~~and~~

30 (i) The reasons why the petitioner desires to adopt
31 the person; and

1 (j) If the child was born out of the state or the
2 adoptive couple resides outside the state, that the adoption
3 will be in compliance with s. 409.401.

4 (2) The following documents are required to be filed
5 with the clerk of the court at the time the petition is filed:

6 (a) Any ~~The~~ required consents or disclaimer of
7 parental rights that have been executed, unless consent is
8 excused by the court.

9 (b) The favorable preliminary home study of the
10 department, licensed child-placing agency, or professional
11 pursuant to s. 63.092, as to the suitability of the home in
12 which the minor has been placed.

13 (c) An affidavit from the birth parent stating that
14 the federal Indian Child Welfare Act, 25 U.S.C. ss. 1901 et
15 seq., is not applicable to the adoption and whether the child
16 qualifies as a Native American.

17 ~~(d)(c) The surrender document must include~~
18 Documentation that interviews were held with:

19 1. The birth mother, if parental rights have not been
20 terminated unless she refuses the interview, and the
21 department, child-placing agency, or professional pursuant to
22 s. 63.092 files an affidavit declaring, it was offered and
23 refused;

24 2. The birth father, if he can be located, if his
25 consent to the adoption is required and parental rights have
26 not been terminated; and

27 3. The child, if older than 12 years of age, unless
28 the court, in the best interest of the child, dispenses with
29 the child's consent under s. 63.062(1)(a)3(e).
30
31

1 The court may waive the requirement for an interview with the
2 birth mother or birth father in the investigation for good
3 cause shown.

4 Section 16. Subsection (2) of section 63.125, Florida
5 Statutes, is amended to read:

6 63.125 Final home investigation.--

7 (2) The department, the licensed child-placing agency,
8 or the professional that performs the investigation must file
9 a written report of the investigation with the court and the
10 petitioner within 90 days after placement in the adoptive home
11 ~~the date the petition is filed.~~

12 Section 17. Subsection (1) of section 63.132, Florida
13 Statutes, is amended to read:

14 63.132 Report of expenditures and receipts.--

15 (1) At least 10 days before the hearing, the
16 petitioner and any intermediary or agency must file two copies
17 of an affidavit containing a full accounting of all
18 disbursements and receipts of anything of value, including
19 professional fees, made or agreed to be made by or on behalf
20 of the petitioner and any intermediary or agency in connection
21 with the adoption. The clerk of the court shall forward a
22 copy of the affidavit to the department. The report must show
23 any expenses or receipts incurred in connection with:

24 (a) The birth of the minor.

25 (b) The placement of the minor with the petitioner.

26 (c) The medical or hospital care received by the birth
27 mother or by the minor during the mother's prenatal care and
28 confinement.

29 (d) The living expenses of the birth mother. The
30 living expenses must be documented in detail to apprise the
31 court of the exact expenses incurred.

1 (e) The services relating to the adoption or to the
2 placement of the minor for adoption that were received by or
3 on behalf of the petitioner, the intermediary, either natural
4 parent, the minor, or any other person.

5 Section 18. Subsections (2), (3), (4), (5), (6), and
6 (7) of section 63.162, Florida Statutes, 1996 Supplement, are
7 renumbered as subsections (4), (5), (6), (7), (8), and (9),
8 respectively, and new subsections (2) and (3) are added to
9 said section to read:

10 63.162 Hearings and records in adoption proceedings;
11 confidential nature.--

12 (2) All intermediary and agency files, records, and
13 papers pertaining to the adoption of a minor shall be
14 permanently retained by the intermediary or agency.

15 (3) The intermediary or agency, prior to the closure
16 of its office or agency, shall notify the department, in
17 writing, at least 30 days prior to closing, as to the location
18 of said files, records, and papers.

19 Section 19. Section 63.182, Florida Statutes, is
20 amended to read:

21 63.182 Appeal and validation of judgment.--After 3
22 months ~~1 year~~ from the entry of a judgment of adoption, any
23 irregularity or procedural defect in the proceedings is cured,
24 and the validity of the judgment shall not be subject to
25 direct or collateral attack because of any irregularity or
26 procedural defect. Any defect or irregularity of, or objection
27 to, a consent that could have been cured had it been made
28 during the proceedings shall not be questioned after the time
29 for taking an appeal has expired.

30 Section 20. Paragraph (e) of subsection (1) of section
31 63.085, Florida Statutes, is amended to read:

1 63.085 Disclosure by intermediary.--

2 (1) An intermediary must disclose the following
3 circumstances to persons seeking to adopt a child being placed
4 for adoption by the intermediary:

5 (e) That, pursuant to s. 63.182, for a period of 3
6 months ~~1 year~~ from the entry of a judgment of adoption, any
7 irregularity or procedural defect in the adoption proceeding
8 may be the subject of an appeal contesting the validity of the
9 judgment.

10 Section 21. Section 63.212, Florida Statutes, is
11 amended to read:

12 63.212 Prohibited acts; penalties for violation.--

13 (1) It is unlawful for any person:

14 (a) Except the department, an intermediary, or an
15 agency, to place or attempt to place a child for adoption with
16 a person who primarily lives and works outside this state
17 unless the child is placed with a relative within the third
18 degree or with a stepparent. An intermediary or agency may
19 place or attempt to place a special needs child for adoption
20 with a person who primarily lives and works outside this state
21 only if the intermediary has a declaratory statement from the
22 court establishing the fees to be paid. This requirement does
23 not apply if the child is placed with a relative within the
24 third degree or with a stepparent.

25 (b) Except the department, an intermediary, or an
26 agency, to place or attempt to place a child for adoption with
27 a family whose primary residence and place of employment is in
28 another state unless the child is placed with a relative
29 within the third degree or with a stepparent. An intermediary
30 <U>or agency may place or attempt to place a special needs child
31 for adoption with a family whose primary residence and place

1 of employment is in another state only if the intermediary has
2 a declaratory statement from the court establishing the fees
3 to be paid. This requirement does not apply if the child is
4 placed with a relative within the third degree or with a
5 stepparent.

6 (c) Except the Department of Children and Family
7 Services ~~Health and Rehabilitative Services~~, an agency, or an
8 intermediary, to place or attempt to place within the state a
9 child for adoption unless the child is placed with a relative
10 within the third degree or with a stepparent. This
11 prohibition, however, does not apply to a person who is
12 placing or attempting to place a child for the purpose of
13 adoption with the Department of Children and Family Services
14 ~~Health and Rehabilitative Services~~ or an agency or through an
15 intermediary.

16 (d) To sell or surrender, or to arrange for the sale
17 or surrender of, a child to another person for money or
18 anything of value or to receive such minor child for such
19 payment or thing of value. If a child is being adopted by a
20 relative within the third degree or by a stepparent, or is
21 being adopted through the Department of Children and Family
22 Services ~~Health and Rehabilitative Services~~, an agency, or an
23 intermediary, nothing herein shall be construed as prohibiting
24 the person who is contemplating adopting the child from paying
25 the actual prenatal care and living expenses of the mother of
26 the child to be adopted, nor from paying the actual living and
27 medical expenses of such mother for a reasonable time, not to
28 exceed 6 weeks, if medical needs require such support, after
29 the birth of the child.

30 (e) Having the rights and duties of a parent with
31 respect to the care and custody of a minor to assign or

1 transfer such parental rights for the purpose of, incidental
2 to, or otherwise connected with, selling or offering to sell
3 such rights and duties.

4 (f) To assist in the commission of any act prohibited
5 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),
6 or paragraph (e).

7 (g) Except the Department of Children and Family
8 Services ~~Health and Rehabilitative Services~~, an intermediary,
9 or an agency, to charge or accept any fee or compensation of
10 any nature from anyone for making a referral or participating
11 in the identification of a birth parent, prospective adoptive
12 child, or adoptive parent in connection with an adoption.

13 (h) Except the Department of Children and Family
14 Services ~~Health and Rehabilitative Services~~, an agency, or an
15 intermediary, to advertise or offer to the public, in any way,
16 by any medium whatever that a child is available for adoption
17 or that a child is sought for adoption; and further, it is
18 unlawful for any person to publish or broadcast any such
19 advertisement without including a Florida license number of
20 the agency, attorney, or physician placing the advertisement.

21 (i) To provide to any agency or intermediary
22 untruthful or misleading information when providing necessary
23 information for the completion of an adoptive placement.

24 (j) To contract as a birth parent with an agency or
25 intermediary or accept benefits from an agency or intermediary
26 and to contract with or simultaneously accept benefits from
27 another agency or intermediary without providing the first
28 agency or intermediary with written notice of intention to
29 withdraw from the contract to place.

30 (k)~~(i)~~ To contract for the purchase, sale, or transfer
31 of custody or parental rights in connection with any child, or

1 in connection with any fetus yet unborn, or in connection with
2 any fetus identified in any way but not yet conceived, in
3 return for any valuable consideration. Any such contract is
4 void and unenforceable as against the public policy of this
5 state. However, fees, costs, and other incidental payments
6 made in accordance with statutory provisions for adoption,
7 foster care, and child welfare are permitted, and a person may
8 agree to pay expenses in connection with a preplanned adoption
9 agreement as specified in s. 63.215 below, but the payment of
10 such expenses may not be conditioned upon the transfer of
11 parental rights. Each petition for adoption which is filed in
12 connection with a preplanned adoption agreement must clearly
13 identify the adoption as a preplanned adoption arrangement and
14 must include a copy of the preplanned adoption agreement for
15 review by the court.

16 1. Individuals may enter into a preplanned adoption
17 arrangement as specified herein, but such arrangement shall
18 not in any way:

19 a. Effect final transfer of custody of a child or
20 final adoption of a child, without review and approval of the
21 department and the court, and without compliance with other
22 applicable provisions of law.

23 b. Constitute consent of a mother to place her child
24 for adoption until 7 days following birth, and unless the
25 court making the custody determination or approving the
26 adoption determines that the mother was aware of her right to
27 rescind within the 7-day period following birth but chose not
28 to rescind such consent.

29 2. A preplanned adoption arrangement shall be based
30 upon a preplanned adoption agreement which shall include, but
31 need not be limited to, the following terms:

1 a. That the volunteer mother agrees to become pregnant
2 by the fertility technique specified in the agreement, to bear
3 the child, and to terminate any parental rights and
4 responsibilities to the child she might have through a written
5 consent executed at the same time as the preplanned adoption
6 agreement, subject to a right of rescission by the volunteer
7 mother any time within 7 days after the birth of the child.

8 b. That the volunteer mother agrees to submit to
9 reasonable medical evaluation and treatment and to adhere to
10 reasonable medical instructions about her prenatal health.

11 c. That the volunteer mother acknowledges that she is
12 aware that she will assume parental rights and
13 responsibilities for the child born to her as otherwise
14 provided by law for a mother, if the intended father and
15 intended mother terminate the agreement before final transfer
16 of custody is completed, or if a court determines that a
17 parent clearly specified by the preplanned adoption agreement
18 to be the biological parent is not the biological parent, or
19 if the preplanned adoption is not approved by the court
20 pursuant to the Florida Adoption Act.

21 d. That an intended father who is also the biological
22 father acknowledges that he is aware that he will assume
23 parental rights and responsibilities for the child as
24 otherwise provided by law for a father, if the agreement is
25 terminated for any reason by any party before final transfer
26 of custody is completed or if the planned adoption is not
27 approved by the court pursuant to the Florida Adoption Act.

28 e. That the intended father and intended mother
29 acknowledge that they may not receive custody or the parental
30 rights under the agreement if the volunteer mother terminates
31

1 the agreement or if the volunteer mother rescinds her consent
2 to place her child for adoption within 7 days after birth.

3 f. That the intended father and intended mother may
4 agree to pay all reasonable legal, medical, psychological, or
5 psychiatric expenses of the volunteer mother related to the
6 preplanned adoption arrangement, and may agree to pay the
7 reasonable living expenses of the volunteer mother. No other
8 compensation, whether in cash or in kind, shall be made
9 pursuant to a preplanned adoption arrangement.

10 g. That the intended father and intended mother agree
11 to accept custody of and to assert full parental rights and
12 responsibilities for the child immediately upon the child's
13 birth, regardless of any impairment to the child.

14 h. That the intended father and intended mother shall
15 have the right to specify the blood and tissue typing tests to
16 be performed if the agreement specifies that at least one of
17 them is intended to be the biological parent of the child.

18 i. That the agreement may be terminated at any time by
19 any of the parties.

20 3. A preplanned adoption agreement shall not contain
21 any provision:

22 a. To reduce any amount paid to the volunteer mother
23 if the child is stillborn or is born alive but impaired, or to
24 provide for the payment of a supplement or bonus for any
25 reason.

26 b. Requiring the termination of the volunteer mother's
27 pregnancy.

28 4. An attorney who represents an intended father and
29 intended mother or any other attorney with whom that attorney
30 is associated shall not represent simultaneously a female who
31 is or proposes to be a volunteer mother in any matter relating

1 to a preplanned adoption agreement or preplanned adoption
2 arrangement.

3 5. Payment to agents, finders, and intermediaries,
4 including attorneys and physicians, as a finder's fee for
5 finding volunteer mothers or matching a volunteer mother and
6 intended father and intended mother is prohibited. Doctors,
7 psychologists, attorneys, and other professionals may receive
8 reasonable compensation for their professional services, such
9 as providing medical services and procedures, legal advice in
10 structuring and negotiating a preplanned adoption agreement,
11 or counseling.

12 6. As used in this paragraph, the term:

13 a. "Blood and tissue typing tests" include, but are
14 not limited to, tests of red cell antigens, red cell
15 isoenzymes, human leukocyte antigens, and serum proteins.

16 b. "Child" means the child or children conceived by
17 means of an insemination that is part of a preplanned adoption
18 arrangement.

19 c. "Fertility technique" means artificial
20 embryonation, artificial insemination, whether in vivo or in
21 vitro, egg donation, or embryo adoption.

22 d. "Intended father" means a male who, as evidenced by
23 a preplanned adoption agreement, intends to have the parental
24 rights and responsibilities for a child conceived through a
25 fertility technique, regardless of whether the child is
26 biologically related to the male.

27 e. "Intended mother" means a female who, as evidenced
28 by a preplanned adoption agreement, intends to have the
29 parental rights and responsibilities for a child conceived
30 through a fertility technique, regardless of whether the child
31 is biologically related to the female.

1 f. "Parties" means the intended father and intended
2 mother, the volunteer mother and her husband, if she has a
3 husband, who are all parties to the preplanned adoption
4 agreement.

5 g. "Preplanned adoption agreement" means a written
6 agreement among the parties that specifies the intent of the
7 parties as to their rights and responsibilities in the
8 preplanned adoption arrangement, consistent with the
9 provisions of this act.

10 h. "Preplanned adoption arrangement" means the
11 arrangement through which the parties enter into an agreement
12 for the volunteer mother to bear the child, for payment by the
13 intended father and intended mother of the expenses allowed by
14 this act, for the intended father and intended mother to
15 assert full parental rights and responsibilities to the child
16 if consent to adoption is not rescinded after birth by the
17 volunteer mother, and for the volunteer mother to terminate,
18 subject to a right of rescission, in favor of the intended
19 father and intended mother all her parental rights and
20 responsibilities to the child.

21 i. "Volunteer mother" means a female person at least
22 18 years of age who voluntarily agrees, subject to a right of
23 rescission, that if she should become pregnant pursuant to a
24 preplanned adoption arrangement, she will terminate in favor
25 of the intended father and intended mother her parental rights
26 and responsibilities to the child.

27 (2) Nothing herein shall be construed to prohibit a
28 licensed child-placing agency from charging fees reasonably
29 commensurate to the services provided.

30 (3) It is unlawful for any intermediary or agency to
31 fail to report to the court, prior to placement, the intended

1 placement of a child for purposes of adoption with any person
2 not a stepparent or a relative within the third degree, if the
3 intermediary or agency participates in such intended
4 placement.

5 (4) It is unlawful for any intermediary or agency to
6 charge any fee over ~~\$2,000~~\$1,000 and those costs as set out
7 in paragraph (1)(d) over ~~\$3,000~~\$2,500, other than for actual
8 documented medical costs, court costs, and hospital costs
9 unless such fee is approved by the court prior to the
10 assessment of the fee by the intermediary or agency and upon a
11 showing of justification for the larger fee.

12 (5) It is unlawful for any intermediary or agency to
13 counsel a birth mother to leave the state for the purpose of
14 giving birth to a child outside the state in order to secure a
15 fee in excess of that permitted under s. 63.097 when it is the
16 intention that the child be placed for adoption outside the
17 state.

18 (6) It is unlawful for any intermediary or agency to
19 obtain a preliminary home study or final home investigation
20 and fail to disclose the existence of the study to the court.

21 (7) A person who violates any provision of this
22 section, excluding paragraph (1)(h), is guilty of a felony of
23 the third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084. A person who violates paragraph
25 (1)(h) is guilty of a misdemeanor of the second degree,
26 punishable as provided in s. 775.083; and each day of
27 continuing violation shall be considered a separate offense.

28 Section 22. Section 63.215, Florida Statutes, is
29 created to read:

30 63.215 Preplanned adoption arrangements.--
31

1 (1) Individuals may enter into a preplanned adoption
2 arrangement as specified in this section but such arrangement
3 shall not in any way:

4 (a) Effect final transfer of custody of a child or
5 final adoption of a child, without review and approval of the
6 department and the court, and without compliance with other
7 applicable provisions of law.

8 (b) Constitute consent of a mother to place her child
9 for adoption until 7 days following birth, and unless the
10 court making the custody determination or approving the
11 adoption determines that the mother was aware of her right to
12 rescind within the 7-day period following birth but chose not
13 to rescind such consent.

14 (2) A preplanned adoption arrangement shall be based
15 upon a preplanned adoption agreement which shall include, but
16 need not be limited to, the following terms:

17 (a) That the volunteer mother agrees to become
18 pregnant by the fertility technique specified in the
19 agreement, to bear the child, and to terminate any parental
20 rights and responsibilities to the child she might have
21 through a written consent executed at the same time as the
22 preplanned adoption agreement, subject to a right of
23 rescission by the volunteer mother any time within 7 days
24 after the birth of the child.

25 (b) That the volunteer mother agrees to submit to
26 reasonable medical evaluation and treatment and to adhere to
27 reasonable medical instructions about her prenatal health.

28 (c) That the volunteer mother acknowledges that she is
29 aware that she will assume parental rights and
30 responsibilities for the child born to her as otherwise
31 provided by law for a mother, if the intended father and

1 intended mother terminate the agreement before final transfer
2 of custody is completed, or if a court determines that a
3 parent clearly specified by the preplanned adoption agreement
4 to be the biological parent is not the biological parent, or
5 if the preplanned adoption is not approved by the court under
6 the Florida Adoption Act.

7 (d) That an intended father who is also the biological
8 father acknowledges that he is aware that he will assume
9 parental rights and responsibilities for the child as
10 otherwise provided by law for a father, if the agreement is
11 terminated for any reason by any party before final transfer
12 of custody is completed or if the planned adoption is not
13 approved by the court under the Florida Adoption Act.

14 (e) That the intended father and intended mother
15 acknowledge that they may not receive custody or the parental
16 rights under the agreement if the volunteer mother terminates
17 the agreement or if the volunteer mother rescinds her consent
18 to place her child for adoption within 7 days after birth.

19 (f) That the intended father and intended mother may
20 agree to pay all reasonable legal, medical, psychological, or
21 psychiatric expenses of the volunteer mother related to the
22 preplanned adoption arrangement, and may agree to pay the
23 reasonable living expenses of the volunteer mother. No other
24 compensation, whether in cash or in kind, shall be made
25 pursuant to a preplanned adoption arrangement.

26 (g) That the intended father and intended mother agree
27 to accept custody of and to assert full parental rights and
28 responsibilities for the child immediately upon the child's
29 birth, regardless of any impairment to the child.

30 (h) That the intended father and intended mother shall
31 have the right to specify the blood and tissue typing tests to

1 be performed if the agreement specifies that at least one of
2 them is intended to be the biological parent of the child.

3 (i) That the agreement may be terminated at any time
4 by any of the parties.

5 (3) A preplanned adoption agreement shall not contain
6 any provision:

7 (a) To reduce any amount paid to the volunteer mother
8 if the child is stillborn or is born alive but impaired, or to
9 provide for the payment of a supplement or bonus for any
10 reason.

11 (b) Requiring the termination of the volunteer
12 mother's pregnancy.

13 (4) An attorney who represents an intended father and
14 intended mother or any other attorney with whom that attorney
15 is associated shall not represent simultaneously a female who
16 is or proposes to be a volunteer mother in any matter relating
17 to a preplanned adoption agreement or preplanned adoption
18 arrangement.

19 (5) Payment to agents, finders, and intermediaries,
20 including attorneys and physicians, as a finder's fee for
21 finding volunteer mothers or matching a volunteer mother and
22 intended father and intended mother is prohibited. Doctors,
23 psychologists, attorneys, and other professionals may receive
24 reasonable compensation for their professional services, such
25 as providing medical services and procedures, legal advice in
26 structuring and negotiating a preplanned adoption agreement,
27 or counseling.

28 (6) As used in this section the term:

29 (a) "Blood and tissue typing tests" include, but are
30 not limited to, tests of red cell antigens, red cell
31 isoenzymes, human leukocyte antigens, and serum proteins.

1 (b) "Child" means the child or children conceived by
2 means of an insemination that is part of a preplanned adoption
3 arrangement.

4 (c) "Fertility technique" means artificial
5 embryonation, artificial insemination, whether in vivo or in
6 vitro, egg donation, or embryo adoption.

7 (d) "Intended father" means a male who, as evidenced
8 by a preplanned adoption agreement, intends to have the
9 parental rights and responsibilities with respect to a child
10 conceived through a fertility technique, regardless of whether
11 the child is biologically related to the male.

12 (e) "Intended mother" means a female who, as evidenced
13 by a preplanned adoption agreement, intends to have the
14 parental rights and responsibilities with respect to a child
15 conceived through a fertility technique, regardless of whether
16 the child is biologically related to the female.

17 (f) "Parties" means the intended father and intended
18 mother, the volunteer mother and her husband, if she has a
19 husband, who are all parties to the preplanned adoption
20 agreement.

21 (g) "Preplanned adoption agreement" means a written
22 agreement among the parties that specifies the intent of the
23 parties as to their rights and responsibilities in the
24 preplanned adoption arrangement, consistent with the
25 provisions of this act.

26 (h) "Preplanned adoption arrangement" means the
27 arrangement through which the parties enter into an agreement
28 for the volunteer mother to bear the child, for payment by the
29 intended father and intended mother of the expenses allowed by
30 this act, for the intended father and intended mother to
31 assert full parental rights and responsibilities with respect

1 to the child if consent to adoption is not rescinded after
2 birth by the volunteer mother, and for the volunteer mother to
3 terminate, subject to a right of rescission, in favor of the
4 intended father and intended mother all her parental rights
5 and responsibilities with respect to the child.

6 (i) "Volunteer mother" means a female person at least
7 18 years of age who voluntarily agrees, subject to a right of
8 rescission, that if she should become pregnant pursuant to a
9 preplanned adoption arrangement, she will terminate in favor
10 of the intended father and intended mother her parental rights
11 and responsibilities with respect to the child.

12 Section 23. Subsection (48) of section 39.01, Florida
13 Statutes, 1996 Supplement, is amended to read:

14 39.01 Definitions.--When used in this chapter:

15 (48) "Parent" means a woman who gives birth to a child
16 and a man whose consent to the adoption of the child would be
17 required under s. 63.062(1)(a)2(b). If a child has been
18 legally adopted, the term "parent" means the adoptive mother
19 or father of the child. The term does not include an
20 individual whose parental relationship to the child has been
21 legally terminated, or an alleged or prospective parent,
22 unless the parental status falls within the terms of either s.
23 39.4051(7) or s. 63.062(1)(a)2(b).

24 Section 24. This act shall take effect July 1, 1997.
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HOUSE SUMMARY

Allows the removal of a prospective adoptee from the adoptive home, before the adoption is final, if the home is found to be unsuitable. Requires that an interview with the birth parents, and documentation of that interview, be made part of the preliminary home study conducted before a minor is placed in a prospective adoptive home. Authorizes the filing of a petition for an adoption in the county in which an adoption intermediary is located. Requires that a petition for adoption contain a statement that the adoption will comply with the Interstate Compact on the Placement of Children, if the child was born, or the adoptive couple resides, out of state. Requires that the petition be accompanied by an affidavit from the birth parents regarding whether certain federal law is applicable and whether the child qualifies as a Native American. Revises time period for appeal. Prohibits a person from providing false or misleading information about himself when providing information for the completion of an adoptive placement. Prohibits a birth parent from contracting with, or accepting benefits from, more than one intermediary. Provides for preplanned adoption arrangements. See bill for details.