

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
---------------	----------------	--------------

1		.	
2		.	
3		.	
4		.	
5			
6			
7			
8			
9			
10			

11 Senator Dudley moved the following amendment to amendment  
 12 (403354):

13  
 14 **Senate Amendment (with title amendment)**  
 15 On page 16, lines 14-15, delete those lines

16  
 17 and insert:  
 18 Section 16. Section 39.461, Florida Statutes, is  
 19 amended to read:

20 39.461 Petition for termination of parental rights.--  
 21 (1) All proceedings seeking an adjudication to  
 22 terminate parental rights pursuant to this chapter must be  
 23 initiated by the filing of an original petition by the  
 24 department, the guardian ad litem, ~~or a licensed child-placing~~  
 25 ~~agency~~ or ~~by~~ any other person who has knowledge of the facts  
 26 alleged or is informed of them and believes that they are  
 27 true.

28 (2) The form of the petition is governed by the  
 29 Florida Rules of Juvenile Procedure. The petition must be in  
 30 writing and signed by the petitioner or, if the department is  
 31 the petitioner, by an employee of the department, under oath

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 stating the petitioner's good faith in filing the petition.

2 (3) When a petition for termination of parental rights  
3 has been filed, the clerk of the court shall set the case  
4 before the court for an advisory hearing.

5 Section 17. Section 39.464, Florida Statutes, as  
6 amended by section 12 of chapter 97-276, Laws of Florida, is  
7 amended to read:

8 39.464 Grounds for termination of parental rights.--

9 (1) The department, the guardian ad litem, ~~a licensed~~  
10 ~~child-placing agency~~, or any person related to the child who  
11 has knowledge of the facts alleged or who is informed of said  
12 facts and believes that they are true, may petition for the  
13 termination of parental rights under any of the following  
14 circumstances:

15 (a) When the parent or parents voluntarily executed a  
16 written surrender of the child and consented to the entry of  
17 an order giving custody of the child to the department ~~or to a~~  
18 ~~licensed child-placing agency~~ for subsequent adoption and the  
19 department ~~or licensed child-placing agency~~ is willing to  
20 accept custody of the child.

21 1. The surrender document must be executed before two  
22 witnesses and a notary public or other person authorized to  
23 take acknowledgments.

24 2. The surrender and consent may be withdrawn after  
25 acceptance by the department ~~or licensed child-placing agency~~  
26 only after a finding by the court that the surrender and  
27 consent were obtained by fraud or duress.

28 (b) When the identity or location of the parent or  
29 parents is unknown and, if the court requires a diligent  
30 search pursuant to s. 39.4625, cannot be ascertained by  
31 diligent search as provided in s. 39.4625 within 90 days.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 (c) When the parent or parents engaged in conduct  
2 toward the child or toward other children that demonstrates  
3 that the continuing involvement of the parent or parents in  
4 the parent-child relationship threatens the life or well-being  
5 of the child irrespective of the provision of services.  
6 Provision of services is evidenced by proof that services were  
7 provided through a previous plan or offered as a case plan  
8 from a child welfare agency.

9 (d) When the parent of a child is incarcerated in a  
10 state or federal correctional institution and:

11 1. The period of time for which the parent is expected  
12 to be incarcerated will constitute a substantial portion of  
13 the period of time before the child will attain the age of 18  
14 years;

15 2. The incarcerated parent has been determined by the  
16 court to be a violent career criminal as defined in s.  
17 775.084, a habitual violent felony offender as defined in s.  
18 775.084, or a sexual predator as defined in s. 775.21; has  
19 been convicted of first degree or second degree murder in  
20 violation of s. 782.04 or a sexual battery that constitutes a  
21 capital, life, or first degree felony violation of s. 794.011;  
22 or has been convicted of an offense in another jurisdiction  
23 which is substantially similar to one of the offenses listed  
24 in this paragraph. As used in this section, the term  
25 "substantially similar offense" means any offense that is  
26 substantially similar in elements and penalties to one of  
27 those listed in this paragraph, and that is in violation of a  
28 law of any other jurisdiction, whether that of another state,  
29 the District of Columbia, the United States or any possession  
30 or territory thereof, or any foreign jurisdiction; and

31 3. The court determines by clear and convincing

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 evidence that continuing the parental relationship with the  
2 incarcerated parent would be harmful to the child and, for  
3 this reason, that termination of the parental rights of the  
4 incarcerated parent is in the best interest of the child.

5 (e) When the parent or parents engaged in egregious  
6 conduct that endangers the life, health, or safety of the  
7 child or the child's sibling or had the opportunity and  
8 capability to prevent egregious conduct that threatened the  
9 life, health, or safety of the child or the child's sibling  
10 and knowingly failed to do so.

11 1. As used in this subsection, the term "sibling"  
12 means another child who resides with or is cared for by the  
13 parent or parents regardless of whether the child is related  
14 legally or by consanguinity.

15 2. As used in this subsection, the term "egregious  
16 abuse" means conduct of the parent or parents that is  
17 deplorable, flagrant, or outrageous by a normal standard of  
18 conduct. Egregious abuse may include an act or omission that  
19 occurred only once but was of such intensity, magnitude, or  
20 severity as to endanger the life of the child.

21 (f) A petition for termination of parental rights may  
22 also be filed when a child has been adjudicated dependent, a  
23 case plan has been filed with the court, and the child  
24 continues to be abused, neglected, or abandoned by the  
25 parents. In this case, the failure of the parents to  
26 substantially comply for a period of 12 months after an  
27 adjudication of the child as a dependent child constitutes  
28 evidence of continuing abuse, neglect, or abandonment unless  
29 the failure to substantially comply with the case plan was due  
30 either to the lack of financial resources of the parents or to  
31 the failure of the department to make reasonable efforts to

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 reunify the family. Such 12-month period may begin to run only  
2 after the entry of a disposition order placing the custody of  
3 the child with the department or a person other than the  
4 parent and the subsequent filing with the court of a case plan  
5 with a goal of reunification with the parent.

6 (2) When a petition for termination of parental rights  
7 is filed under subsection (1), a separate petition for  
8 dependency need not be filed and the department need not offer  
9 the parents a case plan with a goal of reunification, but may  
10 instead file with the court a case plan with a goal of  
11 termination of parental rights.

12 Section 18. Subsections (2) and (8) of section 39.469,  
13 Florida Statutes, are amended to read:

14 39.469 Powers of disposition; order of disposition.--

15 (2) If the child is in foster care custody of the  
16 department and the court finds that the grounds for  
17 termination of parental rights have been established by clear  
18 and convincing evidence, the court shall, by order, place the  
19 child in the custody of the department for the purpose of  
20 adoption ~~or place the child in the custody of a licensed~~  
21 ~~child-placing agency for the purpose of adoption.~~

22 (8) If the court terminates parental rights, it shall,  
23 in its order of disposition, provide for a hearing, to be  
24 scheduled no later than 30 days after the date of disposition,  
25 in which the department ~~or the licensed child-placing agency~~  
26 shall provide to the court a plan for permanency for the  
27 child. Thereafter, until the adoption of the child is  
28 finalized or the child reaches the age of 18 years, whichever  
29 occurs first, the court shall hold hearings at 6-month  
30 intervals to review the progress being made toward permanency  
31 for the child.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           Section 19. Section 39.47, Florida Statutes, is  
2 amended to read:

3           39.47 Postdisposition ~~Post disposition~~ relief.--

4           (1) ~~A licensed child-placing agency or~~ The department  
5 that which is given custody of a child for subsequent adoption  
6 in accordance with this chapter may place the child in a  
7 family home for prospective subsequent adoption and may  
8 thereafter become a party to any proceeding for the legal  
9 adoption of the child and appear in any court where the  
10 adoption proceeding is pending and consent to the adoption;  
11 and that consent alone shall in all cases be sufficient.

12           (2) In any subsequent adoption proceeding, the parents  
13 and legal guardian are shall not be entitled to any notice of  
14 the proceeding and are not thereof, nor shall they be entitled  
15 to knowledge at any time after the order terminating parental  
16 rights is entered of the whereabouts of the child or of the  
17 identity or location of any person having the custody of or  
18 having adopted the child, except as provided by order of the  
19 court pursuant to this chapter or chapter 63; and in any  
20 habeas corpus or other proceeding involving the child brought  
21 by any parent or legal guardian of the child, an no agent of  
22 ~~the licensed child-placing agency or~~ department may not shall  
23 be compelled to divulge that information, but may be compelled  
24 to produce the child before a court of competent jurisdiction  
25 if the child is still subject to the guardianship of the  
26 ~~licensed child-placing agency or~~ department.

27           (3) The entry of the custody order to the department  
28 does or licensed child-placing agency shall not entitle the  
29 ~~licensed child-placing agency or~~ department to guardianship of  
30 the estate or property of the child, but the ~~licensed~~  
31 ~~child-placing agency or~~ department shall be the guardian of

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 the person of the child.

2 (4) The court shall retain jurisdiction over any child  
3 for whom custody is given to ~~a licensed child placing agency~~  
4 ~~or to~~ the department until the child is adopted. After custody  
5 of a child for subsequent adoption has been given to ~~an agency~~  
6 ~~or~~ the department, the court has jurisdiction for the purpose  
7 of reviewing the status of the child and the progress being  
8 made toward permanent adoptive placement. As part of this  
9 continuing jurisdiction, for good cause shown by the guardian  
10 ad litem for the child, the court may review the  
11 appropriateness of the adoptive placement of the child. The  
12 petition for adoption must be filed in the division of the  
13 circuit court which issued the judgment terminating parental  
14 rights. A copy of the consent required under s. 63.062(4) and  
15 executed by the department must be attached to the petition  
16 for adoption. The petition for adoption must be accompanied by  
17 a form created by the department which details the social and  
18 medical history of each birth parent and includes the social  
19 security number and date of birth for each birth parent, if  
20 such information is available or readily obtainable. The  
21 person seeking to adopt the minor may not file a petition for  
22 adoption until the order terminating parental rights becomes  
23 final. An adoption proceeding under this subsection is  
24 governed by chapter 63, as limited under s. 63.037.

25 (5) The Legislature finds that children are most  
26 likely to realize their potential when they have the ability  
27 provided by good permanent families rather than spending long  
28 periods of time in temporary placements or unnecessary  
29 institutions. It is the intent of the Legislature that  
30 decisions be consistent with the child's best interests and  
31 that the department make proper adoptive placements as

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 expeditiously as possible following a final judgment  
2 terminating parental rights.

3 Section 20. Section 63.022, Florida Statutes, is  
4 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) The basic safeguards intended to be provided by  
12 this chapter act are that:

13 (a) The minor child is legally free for adoption.

14 (b) The required persons consent to the adoption or  
15 the parent-child relationship is terminated by judgment of the  
16 court.

17 (c) The required social studies are completed and the  
18 court considers the reports of these studies prior to judgment  
19 on adoption petitions.

20 (d) All placements of minors for adoption are reported  
21 to the Department of Children and Family Services.

22 (e) A sufficient period of time elapses during which  
23 the minor child has lived within the proposed adoptive home  
24 under the guidance of the department or a licensed  
25 child-placing agency.

26 (f) All expenditures by adoption entities  
27 ~~intermediaries~~ placing, and persons independently adopting, a  
28 minor are reported to the court and become a permanent record  
29 in the file of the adoption proceedings.

30 (g) Social and medical information concerning the  
31 minor child and the birth parents is furnished by the birth



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 parent when available and filed with the court before a final  
 2 hearing on a petition to terminate parental rights pending  
 3 adoption consent to the adoption when a minor is placed by an  
 4 intermediary.

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

7 (i) At the time of the hearing, the court may is  
 8 ~~authorized to~~ order temporary substitute care when it  
 9 determines that the minor is in an unsuitable home.

10 (j) The records of all proceedings concerning custody  
 11 and adoption of minor children are confidential and exempt  
 12 from ~~the provisions of~~ s. 119.07(1), except as provided in s.  
 13 63.162.

14 (k) The birth parent, the adoptive parent, and the  
 15 minor child receive the same or similar safeguards, guidance,  
 16 counseling, and supervision in an intermediary adoption as  
 17 they receive in an agency or department adoption.

18 (l) In all matters coming before the court pursuant to  
 19 this chapter act, the court shall enter such orders as it  
 20 deems necessary and suitable to promote and protect the best  
 21 interests of the person to be adopted.

22 Section 21. Section 63.032, Florida Statutes, is  
 23 amended to read:

24 63.032 Definitions.--As used in this chapter act,  
 25 ~~unless the context otherwise requires,~~ the term:

26 (1) "Department" means the Department of Children and  
 27 Family Services.

28 (2) "Child" means a son or daughter, whether by birth  
 29 or adoption.

30 (3) "Court" means any circuit court of this state and,  
 31 when the context requires, the court of any state that is

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 empowered to grant petitions for adoption.

2 (4) "Minor" means a person under the age of 18 years.

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

4 (6) "Person" includes a natural person, corporation,  
5 government or governmental subdivision or agency, business  
6 trust, estate, trust, partnership, or association, and any  
7 other legal entity.

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

11 (8) "Intermediary" means an attorney ~~or physician~~ who  
12 is licensed or authorized to practice in this state and who  
13 has reported the intended placement of a minor for adoption  
14 under s. 63.092 or, for the purpose of adoptive placements of  
15 children from out of state with citizens of this state, a  
16 child-placing agency licensed in another state that is  
17 qualified by the department.

18 (9) "To place" or "placement" means the process of a  
19 person giving a child up for adoption and the prospective  
20 parents receiving and adopting the child, and includes all  
21 actions by any person or agency participating in the process.

22 (10) "Adoption" means the act of creating the legal  
23 relationship between parent and child where it did not exist,  
24 thereby declaring the child to be legally the child of the  
25 adoptive parents and their heir at law and entitled to all the  
26 rights and privileges and subject to all the obligations of a  
27 child born to such adoptive parents in lawful wedlock.

28 (11) "Suitability of the intended placement" includes  
29 the fitness of the intended placement, with primary  
30 consideration being given to the welfare of the child; the  
31 fitness and capabilities of the adoptive parent or parents to

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 function as parent or parents for a particular child; any  
2 familial relationship between the child and the prospective  
3 placement; and the compatibility of the child with the home in  
4 which the child is intended to be placed.

5 (12) "Primary residence and place of employment in  
6 Florida" means a person lives and works in this state at least  
7 6 months of the year and intends to do so for the foreseeable  
8 future or military personnel who designate Florida as their  
9 place of residence in accordance with the Soldiers' and  
10 Sailors' Civil Relief Act of 1940 or employees of the United  
11 States Department of State living in a foreign country who  
12 designate Florida as their place of residence.

13 (13) "Primarily lives and works outside Florida" means  
14 anyone who does not meet the definition of "primary residence  
15 and place of employment in Florida."

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

28 (15) "Adoption entity" means the department under  
29 chapter 39; an agency under chapter 63 or, at the request of  
30 the department, under chapter 39; or an intermediary under  
31 chapter 63, placing a person for adoption.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           Section 22. Section 63.037, Florida Statutes, is  
2 created to read:

3           63.037 Proceedings applicable to cases resulting from  
4 a termination of parental rights under chapter 39.--A case in  
5 which a minor becomes available for adoption after the  
6 parental rights of each parent have been terminated by a court  
7 order issued pursuant to chapter 39 will be governed by s.  
8 39.47 and this chapter. Adoption proceedings filed under  
9 chapter 39 are exempt from the following provisions of this  
10 chapter: disclosure requirements for the adoption entity  
11 provided in s. 63.085; general provisions governing  
12 termination of parental rights pending adoption provided in s.  
13 63.087; notice and service provisions governing termination of  
14 parental rights pending adoption provided in s. 63.088; and  
15 procedures for terminating parental rights pending adoption  
16 provided in s. 63.089.

17           Section 23. Section 63.038, Florida Statutes, is  
18 created to read:

19           63.038 Prohibited acts.--A person who knowingly and  
20 willfully provides false information under this chapter or  
21 who, with the intent to defraud, accepts benefits related to  
22 the same pregnancy from more than one agency or intermediary  
23 without disclosing that fact to each entity commits a  
24 misdemeanor of the second degree, punishable as provided in s.  
25 775.082 or s. 775.083. In addition to any other penalty or  
26 liability allowed by law, a person who knowingly and willfully  
27 provides false information under this chapter or who, with  
28 intent to defraud, accepts benefits related to the same  
29 pregnancy from more than one agency or intermediary without  
30 disclosing that fact to each entity and to any prospective  
31 adoptive parent providing sums for the payment of the benefits

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 is liable for sums paid by anyone who paid sums permitted  
2 under this chapter in anticipation of or in connection with an  
3 adoption. A person seeking to collect moneys under this  
4 section may do so by filing a civil action or may be awarded  
5 restitution in a criminal prosecution.

6 Section 24. Section 63.039, Florida Statutes, is  
7 created to read:

8 63.039 Duty of adoption entity to prospective adoptive  
9 parents; sanctions.--

10 (1) An adoption entity placing a minor for adoption  
11 has an affirmative duty to follow the requirements of this  
12 chapter, specifically the following provisions, which protect  
13 and promote the well-being of persons being adopted and their  
14 birth and adoptive parents by promoting certainty, finality,  
15 and permanency for such persons:

16 (a) Provide written initial disclosure to the adoptive  
17 parent at the time and in the manner required under s.  
18 63.085(1);

19 (b) Obtain a written statement by the adoptive parent  
20 acknowledging receipt of the written initial disclosure and  
21 distribute copies of that acknowledgment at the time and in  
22 the manner required under s. 63.085(3);

23 (c) Provide written initial and postbirth disclosure  
24 to the birth parent at the time and in the manner required  
25 under s. 63.085;

26 (d) Obtain a written statement by the birth parent  
27 acknowledging receipt of the written initial and postbirth  
28 disclosure and distribute copies of that acknowledgment at the  
29 time and in the manner required under s. 63.085(3);

30 (e) When a written consent for adoption is obtained,  
31 obtain the consent at the time and in the manner required

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 under s. 63.082;

2 (f) When a written consent or affidavit of  
3 nonpaternity for adoption is obtained, obtain a consent or  
4 affidavit of nonpaternity that contains the language required  
5 under s. 63.062 or s. 63.082;

6 (g) Include in the petition to terminate parental  
7 rights pending adoption all information required under s.  
8 63.087(6)(e);

9 (h) Obtain and file the affidavit of inquiry required  
10 under s. 63.088(3);

11 (i) When the identity of a person whose consent to  
12 adoption is necessary under this chapter is known but the  
13 location of such a person is unknown, conduct the  
14 due-diligence search and file the affidavit required under s.  
15 63.088(4);

16 (j) Serve the petition and notice of hearing to  
17 terminate parental rights pending adoption at the time and in  
18 the manner required by s. 63.088; and

19 (k) Hold the hearings required under this chapter no  
20 sooner than permitted by this chapter.

21 (2) An adoption entity that materially fails to meet a  
22 duty specified in subsection (1), may be liable to the  
23 prospective adoptive parents for all sums paid by the  
24 prospective adoptive parents or on their behalf in  
25 anticipation of or in connection with an adoption.

26 (3) If a court finds that a consent taken under this  
27 chapter was obtained by fraud or duress attributable to the  
28 adoption entity, the court must award all sums paid by the  
29 prospective adoptive parents or on their behalf in  
30 anticipation of or in connection with the adoption. The court  
31 may also award reasonable attorney's fees and costs incurred

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 by the prospective adoptive parents in connection with the  
2 adoption and any litigation related to placement or adoption  
3 of a minor. An award under this subsection must be paid  
4 directly to the prospective adoptive parents by the adoption  
5 entity.

6 (4) If a person whose consent to an adoption is  
7 necessary under s. 63.062 prevails in an action to set aside a  
8 consent to adoption, a judgment terminating parental rights  
9 pending adoption, or a judgment of adoption, the court must  
10 award a reasonable attorney's fee to the prevailing party. An  
11 award under this subsection is to be paid by the adoption  
12 entity if the court finds that the acts or omissions of the  
13 entity were the basis for the court's order granting relief to  
14 the prevailing party.

15 (5) The court must provide to The Florida Bar any  
16 order that imposes sanctions under this section against an  
17 attorney, whether acting as an adoption agency or as an  
18 intermediary. The court must provide to the Department of  
19 Children and Family Services any order that imposes sanctions  
20 under this section against an agency. The order must be  
21 provided within 30 days after the date that the order was  
22 issued.

23 Section 25. Section 63.052, Florida Statutes, is  
24 amended to read:

25 63.052 Guardians designated; proof of commitment.--

26 (1) For minors who have been placed for adoption with  
27 and permanently committed to an agency, the agency shall be  
28 the guardian of the person of the minor child; for those who  
29 have been placed for adoption with and permanently committed  
30 to the department, the department shall be the guardian of the  
31 person of the minor child.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (2) For minors who have been voluntarily surrendered  
2 to an intermediary through an execution of consent to  
3 adoption, the intermediary shall be responsible for the child  
4 until the time a court orders preliminary approval of  
5 placement of the child in the prospective adoptive home, at  
6 which time the prospective adoptive parents become guardians  
7 pending finalization of adoption. Until a court has terminated  
8 parental rights pending adoption and has ordered preliminary  
9 approval of placement of the minor in the adoptive home, the  
10 minor must be placed in the care of a birth relative, placed  
11 in foster care, or placed in the care of a prospective  
12 adoptive home that has received a favorable home study by a  
13 licensed child placing agency, a licensed professional, or an  
14 agency described in s. 61.20(2) within 1 year before such  
15 placement of the minor with the prospective adoptive parents.  
16 The fact that a minor is temporarily placed with the  
17 prospective adoptive parents does not give rise to a  
18 presumption that the parental rights of the birth parents will  
19 subsequently be terminated.

20           ~~(2)~~ For minors who have been placed for adoption with  
21 or voluntarily surrendered to an agency, but have not been  
22 permanently committed to the agency, the agency shall have the  
23 responsibility and authority to provide for the needs and  
24 welfare for such minors. For those minors placed for adoption  
25 with or voluntarily surrendered to the department, but not  
26 permanently committed to the department, the department shall  
27 have the responsibility and authority to provide for the needs  
28 and welfare for such minors. The adoption entity may  
29 ~~department, an intermediary, or a licensed child-placing~~  
30 ~~agency has the authority to~~ authorize all appropriate medical  
31 care for a minor ~~the children~~ who has ~~have~~ been placed for



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 adoption with or voluntarily surrendered to them. The  
2 provisions of s. 627.6578 shall remain in effect  
3 notwithstanding the guardianship provisions in this section.

4 (3) If a minor is surrendered to an intermediary for  
5 subsequent adoption and a suitable prospective adoptive home  
6 is not available under s. 63.092 at the time the minor is  
7 surrendered to the intermediary or, if the minor is a newborn  
8 admitted to a licensed hospital or birth center, at the time  
9 the minor is discharged from the hospital or birth center the  
10 minor must be placed in licensed foster care, the intermediary  
11 shall be responsible for the child until a suitable  
12 prospective adoptive home is available under s. 63.092.

13 (4) If a minor child is voluntarily surrendered to an  
14 intermediary for subsequent adoption and the adoption does not  
15 become final within 180 days, the intermediary must report to  
16 the court on the status of the minor child and the court may  
17 at that time proceed under s. 39.453 or take action reasonably  
18 necessary to protect the best interest of the minor child.

19 (5) The recital in the written consent given by the  
20 department that the minor child sought to be adopted has been  
21 permanently committed to the department shall be prima facie  
22 proof of such commitment. The recital in the written consent  
23 given by a licensed child-placing agency or the declaration in  
24 an answer or recommendation filed by a licensed child-placing  
25 agency that the minor child has been permanently committed and  
26 the child-placing agency is duly licensed by the department  
27 shall be prima facie proof of such commitment and of such  
28 license.

29 (6) Unless otherwise authorized by law, the department  
30 is not responsible for expenses incurred by licensed  
31 child-placing agencies or intermediaries participating in

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 placement of a minor child for the purposes of adoption.  
 2 (7) The court retains jurisdiction over a minor who  
 3 has been placed for adoption until the adoption is final.  
 4 After a minor is placed with an adoption entity or prospective  
 5 adoptive parent, the court has jurisdiction for the purpose of  
 6 reviewing the status of the minor and the progress being made  
 7 toward permanent adoptive placement. As part of this  
 8 continuing jurisdiction, for good cause shown by a person  
 9 whose consent to an adoption is required under s. 63.062, by a  
 10 party to any proceeding involving the minor, or upon the  
 11 court's own motion, the court may review the appropriateness  
 12 of the adoptive placement of the minor.

13 Section 26. Section 63.062, Florida Statutes, is  
 14 amended to read:

15 63.062 Persons required to consent to adoption.--

16 (1) Unless supported by one or more of the grounds  
 17 enumerated under s. 63.089(3) consent is excused by the court,  
 18 a petition to terminate parental rights pending adoption adopt  
 19 a minor may be granted only if written consent has been  
 20 executed as provided in s. 63.082 after the birth of the minor  
 21 or notice has been served under s. 63.088 to by:

22 (a) The mother of the minor.

23 (b) The father of the minor, if:

24 1. The minor was conceived or born while the father  
 25 was married to the mother; -

26 2. The minor is his child by adoption; -

27 3. The minor has been established by court proceeding  
 28 to be his child.

29 (c) If there is no father as set forth in subsection  
 30 (b), any man for whom the minor has been established to be his  
 31 child by scientific tests that are generally acceptable within

Bill No. CS for CS for SB 1576

Amendment No.     

1 the scientific community to show a probability of paternity.

2 (d) If there is no father as set forth in subsection  
3 (b) or subsection (c), any man who:

4 1.4. He Has acknowledged in writing, signed in the  
5 presence of a competent witness, that he is the father of the  
6 minor and has filed such acknowledgment with the Office of  
7 Vital Statistics of the Department of Health;;

8 2.5. He Has provided the child or the mother during  
9 her pregnancy with support in a repetitive, customary manner;;

10 3. Has been identified by the birth mother as a person  
11 she has reason to believe may be the father of the minor in an  
12 action to terminate parental rights pending adoption pursuant  
13 to this chapter; or

14 4. Is a party in any pending proceeding in which  
15 paternity, custody, or termination of parental rights  
16 regarding the minor is at issue.

17 (e)(c) The minor, if more than 12 years of age, unless  
18 the court in the best interest of the minor dispenses with the  
19 minor's consent.

20 (2) Any person whose consent is required under  
21 paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may  
22 execute an affidavit of nonpaternity in lieu of a consent  
23 under this section and by doing so waives notice to all court  
24 proceedings after the date of execution. An affidavit of  
25 nonpaternity must be executed under s. 63.082 and the person  
26 executing the affidavit must receive disclosure under s.  
27 63.085 prior to signing the affidavit. An affidavit of  
28 nonpaternity must be in substantially the following form:

29  
30 AFFIDAVIT OF NONPATERNITY  
31

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

- 1           1. I have personal knowledge of the facts  
2           stated herein.  
3           2. I have been told that ..... has a child. I  
4           shall not establish or  
5           claim paternity for this child.  
6           3. The child noted herein was not conceived or  
7           born while the birth mother was married to me.  
8           I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I  
9           intend to marry the birth mother.  
10          4. I have not provided the birth mother with  
11          child support or prebirth support; I have not  
12          provided her with prenatal care nor assisted  
13          her with medical expenses; I have not provided  
14          the birth mother or her child or unborn child  
15          with support of any kind, nor do I intend to do  
16          so.  
17          5. I have no interest in assuming the  
18          responsibilities of parenthood for this child.  
19          I will not acknowledge in writing to be the  
20          father of this child nor institute court  
21          proceedings to establish the child to be mine.  
22          6. I do not object to any decision or  
23          arrangements ... makes regarding this child,  
24          including adoption.

25  
26           I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO  
27           TERMINATE PARENTAL RIGHTS OR FINALIZE AN  
28           ADOPTION UNDER THIS CHAPTER.

29  
30           ~~(3)~~(2) The court may require that consent be executed  
31 by:

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

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

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

6           ~~(4)(3)~~ The petitioner must make good faith and  
7 diligent efforts as provided under s. 63.088 to notify, and  
8 obtain written consent from, the persons required to consent  
9 to adoption under s. 63.062 ~~within 60 days after filing the~~  
10 ~~petition. These efforts may include conducting interviews and~~  
11 ~~record searches to locate those persons, including verifying~~  
12 ~~information related to location of residence, employment,~~  
13 ~~service in the Armed Forces, vehicle registration in this~~  
14 ~~state, and corrections records.~~

15           ~~(5)(4)~~ If parental rights to the minor have previously  
16 been terminated, a licensed child-placing agency or the  
17 department with which the minor ~~child~~ has been placed for  
18 subsequent adoption may provide consent to the adoption. In  
19 such case, no other consent is required.

20           ~~(6)(5)~~ A petition to adopt an adult may be granted if:

21           (a) Written consent to adoption has been executed by  
22 the adult and the adult's spouse, if any.

23           (b) Written consent to adoption has been executed by  
24 the birth parents, if any, or proof of service of process has  
25 been filed, showing notice has been served on the parents as  
26 provided in this chapter ~~section~~.

27           Section 27. Section 63.082, Florida Statutes, is  
28 amended to read:

29           63.082 Execution of consent or affidavit of  
30 nonpaternity; family medical history; withdrawal of consent.--

31           (1) Consent or an affidavit of nonpaternity shall be

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 executed as follows:

2 (a) If by the person to be adopted, by oral or written  
3 statement in the presence of the court or by being  
4 acknowledged before a notary public.

5 (b) If by an agency, by affidavit from its authorized  
6 representative.

7 (c) If by any other person, in the presence of the  
8 court or by affidavit.

9 (d) If by a court, by an appropriate order or  
10 certificate of the court.

11 (2) A consent that does not name or otherwise identify  
12 the adopting parent is valid if the consent contains a  
13 statement by the person consenting that the consent was  
14 voluntarily executed and that identification of the adopting  
15 parent is not required for granting the consent.

16 (3)(a) The department must provide a consent form and  
17 a family social and medical history form to an adoption entity  
18 that intermediary who intends to place a child for adoption.  
19 The forms completed by the birth parents must be attached to  
20 the petition to terminate parental rights pending adoption and  
21 must contain such biological and sociological information, or  
22 such information as to the family medical history, regarding  
23 the minor child and the birth parents as is required by the  
24 department. The information must be incorporated into the  
25 final home investigation report specified in s. 63.125. The  
26 ~~court may also require that the~~ birth mother and birth father  
27 must be interviewed by a representative of the department, a  
28 licensed child-placing agency, or a professional pursuant to  
29 s. 63.092 before the consent is executed, unless the birth  
30 parent is found to be an unlocated parent or an unidentified  
31 parent. A summary of each interview, or a statement that the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 parent is unlocated or unidentified, must be filed with the  
2 petition to terminate parental rights pending adoption and  
3 included in the final home study filed under s. 63.125.

4 (b) ~~Consent executed by the department, by a licensed~~  
5 ~~child-placing agency, or by an appropriate order or~~  
6 ~~certificate of the court under s. 63.062(3)(b) must be~~  
7 ~~attached to the petition to terminate parental rights pending~~  
8 ~~adoption and must be accompanied by a family medical history~~  
9 ~~that includes such information concerning the medical history~~  
10 ~~of the child and the birth parents as is available or readily~~  
11 ~~obtainable.~~

12 (c) If any executed consent or social and medical  
13 history is unavailable because the person whose consent is  
14 required is unlocated or unidentified, the petition must be  
15 accompanied by the affidavit of due diligence required under  
16 s. 63.088.

17 (4)(a) The consent to an adoption or affidavit of  
18 nonpaternity shall not for voluntary surrender must be  
19 executed before after the birth of the minor.

20 (b) A consent to adoption of a minor who is to be  
21 placed for adoption under s. 63.052 upon the minor's release  
22 following birth from a licensed hospital or birth center,  
23 shall not be executed sooner than:

- 24 1. 48 hours from the time of the minor's birth; or
- 25 2. The day the birth mother is determined in writing,  
26 either on a patient chart or in release paperwork to be fit  
27 for release from a licensed hospital or birth center;  
28 whichever is sooner.

29  
30 A consent executed under this paragraph is valid upon  
31 execution and thereafter may only be withdrawn when the court

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 finds that it was obtained by fraud or under duress.

2 (c) When the minor to be adopted is not placed under  
3 s. 63.052 upon the minor's release following birth from a  
4 licensed hospital or birth center, the consent may be executed  
5 at any time after the birth of the minor. While such consent  
6 is valid upon execution, it is subject to a 3-day revocation  
7 period under subsection (7).

8 (d) The consent or affidavit of nonpaternity must be  
9 signed ~~child~~, in the presence of two witnesses, and be  
10 acknowledged before a notary public who is not signing as one  
11 of the witnesses. The notary public must legibly note on the  
12 consent or affidavit of nonpaternity the date and time the  
13 consent or affidavit of nonpaternity was executed. The  
14 witnesses' names must be typed or printed underneath their  
15 signatures. The witnesses', ~~and their~~ home or business  
16 addresses and social security numbers, driver's license  
17 numbers, or state identification card numbers must be  
18 included. The absence of a social security number, driver's  
19 license number, or state identification card number shall not  
20 be deemed to invalidate the consent. The person who signs the  
21 consent or affidavit has the right to have at least one of the  
22 witnesses be an individual who does not have a partnership,  
23 employment, agency, or other professional or personal  
24 relationship with the adoption entity or the prospective  
25 adoptive parents. The person who signs the consent or  
26 affidavit of nonpaternity must be given reasonable notice of  
27 the right to select a witness of his or her own choosing. The  
28 person who signs the consent or affidavit of nonpaternity must  
29 acknowledge in writing on the consent or affidavit that such  
30 notice was given and indicate the witness, if any, who was  
31 selected by the person signing the consent or affidavit. A



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 consent to adoption must contain, in at least 16-point  
2 boldfaced type, an acknowledgement of the birth parent's  
3 rights in substantially the following form:

4  
5 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU  
6 HAVE THE RIGHT TO DO ANY OF THE FOLLOWING  
7 INSTEAD OF SIGNING THIS CONSENT OR BEFORE  
8 SIGNING THIS CONSENT:

- 9  
10 (A) CONSULT WITH AN ATTORNEY;  
11 (B) HOLD, CARE FOR, AND FEED THE CHILD;  
12 (C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY  
13 FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS  
14 WILLING TO CARE FOR YOUR CHILD;  
15 (D) TAKE THE CHILD HOME; AND  
16 (E) FIND OUT ABOUT THE COMMUNITY RESOURCES  
17 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO  
18 THROUGH WITH THE ADOPTION.

19  
20 IF YOU DO SIGN THIS CONSENT, YOU ARE  
21 RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR  
22 CONSENT IS VALID AND BINDING UNLESS WITHDRAWN  
23 AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR  
24 RIGHTS TO A CHILD WHO IS TO BE PLACED FOR  
25 ADOPTION UNDER S. 63.052, F.S., UPON THE  
26 MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED  
27 HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL  
28 BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR  
29 ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS  
30 FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH  
31 MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT  
2           TO BE RELEASED FROM A LICENSED HOSPITAL OR  
3           BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE  
4           YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU  
5           HAVE SIGNED THE CONSENT, IT IS VALID AND  
6           BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT  
7           FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR  
8           UNDER DURESS. IF YOU ARE RELINQUISHING YOUR  
9           RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S.  
10          63.052, F.S., UPON THE MINOR'S RELEASE  
11          FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR  
12          BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT  
13          ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE  
14          SUCH CONSENT IS VALID UPON EXECUTION, IT IS  
15          SUBJECT TO A 3-DAY REVOCATION PERIOD.

16  
17          WHEN THE REVOCATION PERIOD APPLIES, YOU MAY  
18          WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO  
19          SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU  
20          SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE  
21          DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A  
22          LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS  
23          LATER.

24  
25          YOU MAY DO THIS BY NOTIFYING THE ADOPTION  
26          ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR  
27          CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER  
28          AT A UNITED STATES POST OFFICE AND ASKING THAT  
29          THE LETTER BE SENT BY CERTIFIED UNITED STATES  
30          MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3  
31          BUSINESS DAYS AFTER THE DATE YOU SIGNED THE

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE  
 2           BIRTH MOTHER'S DISCHARGE FROM A LICENSED  
 3           HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.  
 4           AS USED IN THIS SECTION, THE TERM "BUSINESS  
 5           DAY" MEANS A DAY ON WHICH THE UNITED STATES  
 6           POST OFFICE ACCEPTS CERTIFIED MAIL FOR  
 7           DELIVERY. THE COST OF THIS MUST BE PAID AT THE  
 8           TIME OF MAILING AND THE RECEIPT SHOULD BE  
 9           RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN  
 10          A TIMELY MANNER.

11  
 12           THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:  
 13          ...(Name of Adoption Entity)..., ...(Address of  
 14          Adoption Entity)..., ...(Phone Number of  
 15          Adoption Entity).... FOLLOWING 3 BUSINESS DAYS  
 16          AFTER THE DATE YOU SIGNED THE CONSENT OR 1  
 17          BUSINESS DAY AFTER THE DATE OF THE BIRTH  
 18          MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR  
 19          BIRTH CENTER, WHICHEVER IS LATER, YOU MAY  
 20          WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN  
 21          COURT THAT CONSENT WAS OBTAINED BY FRAUD OR  
 22          DURESS.

23  
 24           (5) Before any consent to adoption or affidavit of  
 25          nonpaternity is executed by a birth parent, but after the  
 26          birth of the child, all requirements of disclosure under s.  
 27          63.085 must be met.

28           (6) A copy of each consent signed in an action for  
 29          termination of parental rights pending adoption must be  
 30          provided to each person whose consent is required under s.  
 31          63.062. A copy of each consent must be hand delivered, with a

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 written acknowledgement of receipt signed by the person whose  
2 consent is required, or mailed by first class United States  
3 mail to the address of record in the court file. If a copy of  
4 a consent cannot be provided as required in this section, the  
5 adoption entity must execute an acknowledgement that states  
6 the reason the copy of the consent is undeliverable. The  
7 original consent and acknowledgment of receipt, or the  
8 acknowledgment of mailing by the adoption entity, must be  
9 filed with the petition for termination of parental rights  
10 pending adoption.

11 (7)(5) Consent executed under subsection (4) paragraph  
12 (c) may be withdrawn for any reason by notifying the adoption  
13 entity in writing by certified United States mail, return  
14 receipt requested, not later than 3 business days after  
15 execution of the consent or 1 business day after the date of  
16 the birth mother's discharge from a licensed hospital or birth  
17 center, whichever occurs later. As used in this subsection,  
18 the term "business day" means a day on which the United States  
19 Post Office accepts certified mail for delivery. Upon  
20 receiving written notice from a person of that person's desire  
21 to withdraw consent, the adoption entity must contact the  
22 prospective adoptive parent to arrange a time certain for the  
23 adoption entity to regain physical custody of the child,  
24 unless upon motion for emergency hearing by the adoption  
25 entity, the court determines in written findings that  
26 placement of the minor with the person withdrawing consent may  
27 endanger the minor. If the court finds that such placement may  
28 endanger the minor, the court must enter an order regarding  
29 continued placement of the child. The order shall include, but  
30 not be limited to, whether temporary placement in foster care  
31 is appropriate, whether an investigation by the Department of

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 Children and Families is recommended, and whether a relative  
2 within the third degree is available for the temporary  
3 placement. In addition, if the person withdrawing consent  
4 claims to be the father of the minor but has not been  
5 established to be the father by marriage, court order, or  
6 scientific testing, the court may order scientific paternity  
7 testing and reserve ruling on removal of the child until the  
8 results of such testing have been filed with the court. The  
9 adoption entity must return the minor within 3 days to the  
10 physical custody of the person withdrawing consent.  
11 Thereafter, consent may be withdrawn only when the court finds  
12 that the consent was obtained by fraud or duress. An affidavit  
13 of nonpaternity may be withdrawn only if the court finds that  
14 the affidavit of nonpaternity was obtained by fraud. The  
15 adoption entity must include its name, address, and telephone  
16 number on the consent form.

17 Section 28. Section 63.085, Florida Statutes, is  
18 amended to read:

19 (Substantial rewording of section. See  
20 s. 63.085, F.S., for present text.)  
21 63.085 Disclosure by adoption entity.--

22 (1) DISCLOSURE REQUIRED TO BIRTH PARENTS AND  
23 PROSPECTIVE ADOPTIVE PARENTS.--Not later than 7 days after a  
24 person seeking to adopt a minor or a person seeking to place a  
25 minor for adoption contacts an adoption entity in person or  
26 provides the adoption entity with a mailing address, the  
27 entity must provide a written disclosure statement to that  
28 person. If a birth parent did not initially contact the  
29 adoption entity, the written disclosure must be provided  
30 within 7 days after that birth parent is identified and  
31 located. The written disclosure statement must be in

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 substantially the following form:

2  
3 ADOPTION DISCLOSURE

4  
5 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE  
6 PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO  
7 ADVISE THEM OF THE FOLLOWING FACTS REGARDING  
8 ADOPTION UNDER FLORIDA LAW:

9  
10 1. Under section 63.212, Florida  
11 Statutes, the existence of a placement or  
12 adoption contract signed by the birth parent or  
13 adoptive parent, prior approval of that  
14 contract by the court, or payment of any  
15 expenses permitted under Florida law does not  
16 obligate anyone to sign a consent or ultimately  
17 place a minor for adoption.

18 2. Under section 63.092, Florida  
19 Statutes, a favorable preliminary home study  
20 and a home investigation of the prospective  
21 adoptive home must be completed as required by  
22 chapter 63, Florida Statutes, before the minor  
23 may be placed in that home.

24 3. Under section 63.082, Florida  
25 Statutes, a consent for adoption or affidavit  
26 of nonpaternity may not be signed until after  
27 the birth of the minor. The consent or  
28 affidavit of nonpaternity is valid and binding  
29 upon execution unless withdrawn as permitted  
30 under section 63.082, Florida Statutes. If the  
31 minor is to be placed for adoption upon leaving

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1       the hospital, the consent may not be signed  
2       until 48 hours after birth or the day the birth  
3       mother is released from the hospital. If the  
4       minor is not placed for adoption upon leaving  
5       the hospital, a 3-day revocation period  
6       applies. Consent may be withdrawn for any  
7       reason by notifying the adoption entity in  
8       writing. In order to withdraw consent, the  
9       written withdrawal of consent must be mailed no  
10      later than 3 business days after execution of  
11      the consent or 1 business day after the date of  
12      the birth mother's discharge from a licensed  
13      hospital or birth center, whichever occurs  
14      later. The letter must be mailed certified  
15      mail, return receipt requested. This is done by  
16      presenting it at any United States Post Office,  
17      and asking that the letter be sent by certified  
18      United States mail with return receipt  
19      requested. The cost of this must be paid at the  
20      time of mailing and the receipt should be  
21      retained as proof that consent was withdrawn in  
22      a timely manner. For purposes of this chapter,  
23      the term "business day" means a day on which  
24      the United States Post Office accepts certified  
25      mail for delivery. Upon receiving written  
26      notice from a person of that person's desire to  
27      withdraw consent, the adoption entity must  
28      contact the prospective adoptive parent to  
29      arrange a time certain to regain physical  
30      custody of the child. The adoption entity must  
31      return the minor within 3 days to the physical





Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1       under section 63.062, Florida Statutes,  
 2       including each birth parent, is entitled to  
 3       seek independent legal advice and  
 4       representation before signing any document or  
 5       surrendering parental rights.

6               7. Under section 63.089, Florida  
 7       Statutes, the termination of parental rights  
 8       will occur simultaneously with the entry of a  
 9       judgment terminating parental rights pending  
 10       adoption.

11              8. Under section 63.182, Florida  
 12       Statutes, an action or proceeding of any kind  
 13       to vacate, set aside, or otherwise nullify an  
 14       order of adoption or an underlying order  
 15       terminating parental rights pending adoption on  
 16       any ground, including fraud or duress, must be  
 17       filed within 1 year after entry of the order  
 18       terminating parental rights pending adoption.

19              9. Under section 63.182, Florida  
 20       Statutes, for 1 year after the entry of a  
 21       judgment of adoption, any irregularity or  
 22       procedural defect in the adoption proceeding  
 23       may be the subject of an appeal contesting the  
 24       validity of the judgment.

25              10. Under section 63.089, Florida  
 26       Statutes, a judgment terminating parental  
 27       rights pending adoption is voidable and any  
 28       later judgment of adoption of that minor is  
 29       voidable if, upon the motion of a birth parent,  
 30       the court finds that any person knowingly gave  
 31       false information that prevented the birth

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1       parent from timely making known his or her  
2       desire to assume parental responsibilities  
3       toward the minor or meeting the requirements  
4       under chapter 63, Florida Statutes, to exercise  
5       his or her parental rights. A motion under  
6       section 63.089, Florida Statutes, must be filed  
7       with the court originally entering the  
8       judgment. The motion must be filed within a  
9       reasonable time, but not later than 1 year  
10       after the date the judgment to which the motion  
11       is directed was entered.

12               11. Under section 63.165, Florida  
13       Statutes, the State of Florida maintains a  
14       registry of adoption information. Information  
15       about the registry is available from the  
16       Department of Children and Family Services.

17               12. Under section 63.032, Florida  
18       Statutes, a court may find that a birth parent  
19       has abandoned his or her child based on conduct  
20       during the pregnancy or based on conduct after  
21       the child is born. In addition, under section  
22       63.089, Florida Statutes, the failure of a  
23       birth parent to respond to notices of  
24       proceedings involving his or her child shall  
25       result in termination of parental rights of a  
26       birth parent. A lawyer can explain what a birth  
27       parent must do to protect his or her parental  
28       rights. Any birth parent wishing to protect his  
29       or her parental rights should act IMMEDIATELY.

30               13. Each birth parent and adoptive parent  
31       is entitled to independent legal advice and

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           representation. Attorney information may be  
2           obtained from the yellow pages, The Florida  
3           Bar's lawyer referral service, and local legal  
4           aid offices and bar associations.

5           14. There are counseling services  
6           available in the community to assist in making  
7           a parenting decision. Consult the yellow pages  
8           of the telephone directory.

9           15. Medical and social services support  
10          is available if the birth parent wishes to  
11          retain parental rights and responsibilities.  
12          Consult the Department of Children and Family  
13          Services.

14  
15          (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity  
16          must obtain a written statement acknowledging receipt of the  
17          disclosure required under subsection (1) and signed by the  
18          persons receiving the disclosure or, if it is not possible to  
19          obtain such an acknowledgement, the adoption entity must  
20          execute an affidavit stating why an acknowledgement could not  
21          be obtained. A copy of the acknowledgement of receipt of the  
22          disclosure must be provided to the person signing it. A copy  
23          of the acknowledgement or affidavit executed by the adoption  
24          entity in lieu of the acknowledgement must be maintained in  
25          the file of the adoption entity. The original acknowledgement  
26          or affidavit must be filed with the court. In the case of a  
27          disclosure provided under subsection (1), the original  
28          acknowledgement or affidavit must be included in the  
29          preliminary home study required in s. 63.092(3).

30          (3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.--Before  
31          execution of any consent to adoption by a birth parent, but

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 after the birth of the minor, all requirements of subsections  
2 (1) and (2) for making certain disclosures to a birth parent  
3 and obtaining a written acknowledgment of receipt must be  
4 repeated.

5 Section 29. Section 63.087, Florida Statutes, is  
6 created to read:

7 63.087 Proceeding to terminate parental rights pending  
8 adoption; general provisions.--

9 (1) INTENT.--It is the intent of the Legislature to  
10 provide a proceeding in which the court determines whether a  
11 minor is legally available for adoption through a separate  
12 proceeding to address termination of parental rights prior to  
13 the filing of a petition for adoption.

14 (2) GOVERNING RULES.--The Florida Family Law Rules of  
15 Procedure govern a proceeding to terminate parental rights  
16 pending adoption unless otherwise provided by law.

17 (3) JURISDICTION.--A court of this state which is  
18 competent to decide child welfare or custody matters has  
19 jurisdiction to hear all matters arising from a proceeding to  
20 terminate parental rights pending adoption. All subsequent  
21 proceedings for the adoption of the minor, if the petition for  
22 termination is granted, must be conducted by the same judge as  
23 these proceedings whenever possible.

24 (4) VENUE.--A petition to terminate parental rights  
25 pending adoption must be filed in the county where the child  
26 resided for the prior 6 months or, if the child is younger  
27 than 6 months of age, in the county where the birth mother or  
28 birth father resided at the time of the execution of the  
29 consent to adoption or the affidavit of nonpaternity, or, if  
30 there is no consent or affidavit of nonpaternity executed by a  
31 birth parent, in the county where the birth mother resides.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (5) PREREQUISITE FOR ADOPTION.--A petition for  
2 adoption may not be filed until 30 days after the date the  
3 judge signed the judgment terminating parental rights pending  
4 adoption under this chapter, unless the adoptee is an adult or  
5 the minor has been the subject of a judgment terminating  
6 parental rights under chapter 39.

7           (6) PETITION.--

8           (a) A proceeding seeking to terminate parental rights  
9 pending adoption pursuant to this chapter must be commenced by  
10 the filing of an original petition after the birth of the  
11 minor.

12           (b) The petition may be filed by a birth parent or  
13 legal guardian of the minor.

14           (c) The petition must be entitled: "In the Matter of  
15 the Proposed Adoption of a Minor Child."

16           (d) If a petition for a declaratory statement under s.  
17 63.102 has previously been filed, a subsequent petition to  
18 terminate parental rights pending adoption may, at the request  
19 of any party or on the court's own motion, be consolidated  
20 with that previous action. If the petition to terminate  
21 parental rights pending adoption is consolidated with a prior  
22 petition filed under this chapter for which a filing fee has  
23 been paid, the petitioner may not be charged a subsequent or  
24 additional filing fee.

25           (e) The petition to terminate parental rights pending  
26 adoption must be in writing and signed by the petitioner under  
27 oath stating the petitioner's good faith in filing the  
28 petition. A written consent, affidavit of nonpaternity, or  
29 affidavit of due diligence under s. 63.088, for each person  
30 whose consent is required under s. 63.062, must be attached.

31           (f) The petition must include:

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           1. The minor's name, gender, date of birth, and place  
2 of birth. The petition must contain all names by which the  
3 minor is or has been known, including the minor's legal name  
4 at the time of the filing of the petition, to allow interested  
5 parties to the action, including birth parents, legal  
6 guardians, persons with custodial or visitation rights to the  
7 minor, and persons entitled to notice pursuant to the Uniform  
8 Child Custody Jurisdiction Act or the Indian Child Welfare  
9 Act, to identify their own interest in the action.

10           2. If the petition is filed before the day the minor  
11 is 6 months old and if the identity or location of the birth  
12 father is unknown, each city in which the birth mother resided  
13 or traveled during the 12 months prior to the minor's birth,  
14 including the county and state in which that city is located.

15           3. Unless the consent of each person whose consent is  
16 required under s. 63.062 or an affidavit of nonpaternity is  
17 attached to the petition, the name and address or, if a  
18 specific address is unknown, the city, including the county  
19 and state in which that city is located, of:

20           a. The minor's mother;

21           b. Any man whom the mother reasonably believes may be  
22 the minor's father; and

23           c. Any legal custodian of the minor.

24  
25 If a required name or address is not known, the petition must  
26 so state.

27           4. All information required by the Uniform Child  
28 Custody Jurisdiction Act and the Indian Child Welfare Act.

29           5. A statement of the grounds under s. 63.089 upon  
30 which the petition is based.

31           6. The name, address, and telephone number of any

Bill No. CS for CS for SB 1576

Amendment No.     

1 adoption entity seeking to place the minor for adoption.

2 7. The name, address, and phone number of the division  
3 of the circuit in which the petition is to be filed.

4 (7) ANSWER NOT REQUIRED.--An answer to the petition or  
5 any pleading need not be filed by any minor, parent, or legal  
6 custodian, but any matter that might be set forth in an answer  
7 or other pleading may be pleaded orally before the court or  
8 filed in writing as any such person may choose.

9 Notwithstanding the filing of any answer or any pleading, any  
10 person present at the hearing to terminate parental rights  
11 pending adoption whose consent to adoption is required under  
12 s. 63.062 must:

13 (a) Be advised by the court that he or she has a right  
14 to ask that the hearing be reset for a later date so that the  
15 person may consult with an attorney;

16 (b) Be given an opportunity to deny the allegations in  
17 the petition; and

18 (c) Be given the opportunity to challenge the validity  
19 of any consents or affidavits of nonpaternity signed by any  
20 person.

21 Section 30. Section 63.088, Florida Statutes, is  
22 created to read:

23 63.088 Proceeding to terminate parental rights pending  
24 adoption; notice and service.--

25 (1) INITIATE LOCATION AND IDENTIFICATION  
26 PROCEDURES.--When the location or identity of a person whose  
27 consent to an adoption is required but is not known, the  
28 adoption entity must begin the inquiry and diligent search  
29 process required by this section not later than 7 days after  
30 the date on which the person seeking to place a minor for  
31 adoption has evidenced in writing to the entity a desire to

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 place the minor for adoption with that entity or not later  
 2 than 7 days after the date any money is provided as permitted  
 3 under this chapter by the adoption entity for the benefit of  
 4 the person seeking to place a minor for adoption.

5 (2) LOCATION AND IDENTITY KNOWN.--Before the court may  
 6 determine that a minor is available for adoption, and in  
 7 addition to the other requirements set forth in this chapter,  
 8 each person whose consent is required under s. 63.062, who has  
 9 not executed an affidavit of nonpaternity, and whose location  
 10 and identity has been determined by compliance with the  
 11 procedures in this section must be personally served, pursuant  
 12 to chapter 48, at least 30 days before the hearing with a copy  
 13 of the petition to terminate parental rights pending adoption  
 14 and with notice in substantially the following form:

15  
 16 NOTICE OF PETITION AND HEARING

17 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

18  
 19 A petition to terminate parental rights pending  
 20 adoption has been filed. A copy of the petition  
 21 is being served with this notice. There will be  
 22 a hearing on the petition to terminate parental  
 23 rights pending adoption on ... (date) ... at  
 24 ... (time) ... before ... (judge) ... at ...  
 25 (location, including complete name and street  
 26 address of the courthouse) .... The court has  
 27 set aside ... (amount of time) ... for this  
 28 hearing.

29  
 30 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE  
 31 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           THE COURT OR TO APPEAR AT THIS HEARING  
2           CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL  
3           END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING  
4           THE MINOR CHILD.

5  
6           (3) REQUIRED INQUIRY.--In all cases filed under this  
7 section, the court must conduct the following inquiry of the  
8 person who is placing the minor for adoption and of any  
9 relative or custodian of the minor who is present at the  
10 hearing and likely to have the following information:

11           (a) Whether the mother of the minor was married at any  
12 time when conception of the minor may have occurred or at the  
13 time of the birth of the minor;

14           (b) Whether the mother was cohabiting with a male at  
15 any time when conception of the minor may have occurred;

16           (c) Whether the mother has received payments or  
17 promises of support with respect to the minor or, because of  
18 her pregnancy, from any person she has reason to believe may  
19 be the father;

20           (d) Whether the mother has named any person as the  
21 father on the birth certificate of the minor or in connection  
22 with applying for or receiving public assistance;

23           (e) Whether any person has acknowledged or claimed  
24 paternity of the minor; and

25           (f) Whether the mother knows the identity of any  
26 person whom she has reason to believe may be the father.

27  
28 The information required under this subsection may be provided  
29 to the court in the form of a sworn affidavit by a person  
30 having personal knowledge of the facts, addressing each  
31 inquiry enumerated in this subsection. The inquiry required

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 under this subsection may be conducted before the birth of the  
2 minor.

3 (4) LOCATION UNKNOWN; IDENTITY DETERMINED.--If the  
4 inquiry by the court under subsection (3) identifies any  
5 person whose consent is required under s. 63.062 and who has  
6 not executed an affidavit of nonpaternity, and the location of  
7 the person from whom consent is required is unknown, the  
8 adoption entity must conduct a diligent search for that person  
9 which must include the following inquiries:

10 (a) The person's current address, or any previous  
11 address, through an inquiry of the United States Post Office  
12 through the Freedom of Information Act;

13 (b) The last known employment of the person, including  
14 the name and address of the person's employer. Inquiry should  
15 be made of the last known employer as to any address to which  
16 wage and earnings statements (W-2 forms) of the person have  
17 been mailed. Inquiry should be made of the last known employer  
18 as to whether the person is eligible for a pension or  
19 profit-sharing plan and any address to which pension or other  
20 funds have been mailed;

21 (c) Union memberships the person may have held or  
22 unions that governed the person's particular trade or craft in  
23 the area where the person last resided;

24 (d) Regulatory agencies, including those regulating  
25 licensing in the area where the person last resided;

26 (e) Names and addresses of relatives to the extent  
27 such can be reasonably obtained from the petitioner or other  
28 sources, contacts with those relatives, and inquiry as to the  
29 person's last known address. The petitioner shall pursue any  
30 leads of any addresses where the person may have moved.

31 Relatives include, but are not limited to, parents, brothers,

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 sisters, aunts, uncles, cousins, nieces, nephews,  
2 grandparents, great grandparents, former in-laws, stepparents,  
3 and stepchildren;

4 (f) Information as to whether or not the person may  
5 have died, and if so, the date and location;

6 (g) Telephone listings in the area where the person  
7 last resided;

8 (h) Inquiries of law enforcement agencies in the area  
9 where the person last resided;

10 (i) Highway patrol records in the state where the  
11 person last resided;

12 (j) Department of Corrections records in the state  
13 where the person last resided;

14 (k) Hospitals in the area where the person last  
15 resided;

16 (l) Records of utility companies, including water,  
17 sewer, cable TV, and electric companies in the area where the  
18 person last resided;

19 (m) Records of the Armed Forces of the United States  
20 as to whether there is any information as to the person;

21 (n) Records of the tax assessor and tax collector in  
22 the area where the person last resided; and

23 (o) Search of one Internet data bank locator service.

24  
25 Any person contacted by a petitioner who is requesting  
26 information pursuant to this subsection must release the  
27 requested information to the petitioner, except when  
28 prohibited by law, without the necessity of a subpoena or  
29 court order. An affidavit of diligent search executed by the  
30 petitioner and the adoption entity must be filed with the  
31 court confirming completion of each aspect of the diligent

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 search enumerated in this subsection and specifying the  
2 results. The diligent search required under this subsection  
3 may be conducted before the birth of the minor.

4 (5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.--This  
5 subsection only applies if, as to any person whose consent is  
6 required under s. 63.062 and who has not executed an affidavit  
7 of nonpaternity, the location or identity of the person is  
8 unknown and the inquiry under subsection (3) fails to identify  
9 the person or the due diligence search under subsection (4)  
10 fails to locate the person. The unlocated or unidentified  
11 person must be served notice under s. 63.088(2), of the  
12 petition and hearing to terminate parental rights pending  
13 adoption by constructive service in the manner provided in  
14 chapter 49 in each county identified in the petition, as  
15 provided in s. 63.087(6). The notice, in addition to all  
16 information required in the petition under s. 63.087(6) and  
17 chapter 49, must contain a physical description, including,  
18 but not limited to, age, race, hair and eye color, and  
19 approximate height and weight of the minor's mother and of any  
20 person the mother reasonably believes may be the father; the  
21 minor's date of birth; and any date and city, including the  
22 county and state in which the city is located, in which  
23 conception may have occurred. If any of the facts that must be  
24 included in the petition under this subsection are unknown and  
25 cannot be reasonably ascertained, the petition must so state.

26 Section 31. Section 63.089, Florida Statutes, is  
27 created to read:

28 63.089 Proceeding to terminate parental rights pending  
29 adoption.--

30 (1) HEARING.--The court may terminate parental rights  
31 pending adoption only after a full evidentiary hearing.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (2) HEARING PREREQUISITES.--The court may hold the  
2 hearing only when:

3           (a) For each person whose consent is required under s.  
4 63.062:

5           1. A consent under s. 63.082 has been executed and  
6 filed within the court;

7           2. An affidavit of nonpaternity under s. 63.082 has  
8 been executed and filed with the court; or

9           3. Notice has been provided under ss. 63.087 and  
10 63.088;

11           (b) For each notice and petition that must be served  
12 under ss. 63.087 and 63.088:

13           1. At least 30 days have elapsed since the date of  
14 personal service and an affidavit of service has been filed  
15 with the court;

16           2. At least 60 days have elapsed since the first date  
17 of publication of constructive service and an affidavit of  
18 service has been filed with the court; or

19           3. An affidavit of nonpaternity which affirmatively  
20 waives service has been executed and filed with the court;

21           (c) The minor named in the petition has been born; and

22           (d) The petition contains all information required  
23 under s. 63.087 and all affidavits of inquiry, due diligence,  
24 and service required under s. 63.088 have been obtained and  
25 filed with the court.

26           (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING  
27 ADOPTION.--The court may issue a judgment terminating parental  
28 rights pending adoption if the court determines by clear and  
29 convincing evidence that each person whose consent to an  
30 adoption is required under s. 63.062:

31           (a) Has executed a valid consent that has not been

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

- 1 withdrawn under s. 63.082 and the consent was obtained  
2 according to the requirements of this chapter;
- 3 (b) Has executed an affidavit of nonpaternity and the  
4 affidavit was obtained according to the requirements of this  
5 chapter;
- 6 (c) Has been properly served notice of the proceeding  
7 in accordance with the requirements of this chapter and has  
8 failed to file a written answer or appear at the evidentiary  
9 hearing resulting in the order terminating parental rights  
10 pending adoption;
- 11 (d) Has abandoned the minor as abandonment is defined  
12 in s. 63.032(14);
- 13 (e) Is a parent of the person to be adopted, which  
14 parent has been judicially declared incapacitated with  
15 restoration of competency found to be medically improbable;
- 16 (f) Is a legal guardian or lawful custodian of the  
17 person to be adopted, other than a parent, who has failed to  
18 respond in writing to a request for consent for a period of 60  
19 days or, after examination of his or her written reasons for  
20 withholding consent, is found by the court to be withholding  
21 his or her consent unreasonably; or
- 22 (g) Is the spouse of the person to be adopted who has  
23 failed to consent, and the failure of the spouse to consent to  
24 the adoption is excused by reason of prolonged and unexplained  
25 absence, unavailability, incapacity, or circumstances that are  
26 found by the court to constitute unreasonable withholding of  
27 consent.
- 28 (4) FINDING OF ABANDONMENT.--A finding of abandonment  
29 resulting in a termination of parental rights must be based  
30 upon clear and convincing evidence. A finding of abandonment  
31 may not be based upon a lack of emotional support to a birth

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 mother during her pregnancy.

2 (a) In making a determination of abandonment the court  
3 must consider:

4 1. Whether the actions alleged to constitute  
5 abandonment demonstrate a willful disregard for the safety of  
6 the child or unborn child;

7 2. Whether other persons prevented the person alleged  
8 to have abandoned the child from making the efforts referenced  
9 in this subsection;

10 3. Whether the person alleged to have abandoned the  
11 child, while being able, refused to provide financial support  
12 when such support was requested by the child's legal guardian  
13 or custodian;

14 4. Whether the person alleged to have abandoned the  
15 child, while being able, refused to pay for medical treatment  
16 when such payment was requested by the child's legal guardian  
17 or custodian and those expenses were not covered by insurance  
18 or other available sources;

19 5. Whether the amount of support provided or medical  
20 expenses paid was appropriate, taking into consideration the  
21 needs of the child and relative means and resources available  
22 to the person alleged to have abandoned the child and  
23 available to the child's legal guardian or custodian during  
24 the period the child allegedly was abandoned; and

25 6. Whether the child's legal guardian or custodian  
26 made the child's whereabouts known to the person alleged to  
27 have abandoned the child; advised that person of the needs of  
28 the child or the needs of the mother of an unborn child with  
29 regard to the pregnancy; or informed that person of events  
30 such as medical appointments and tests relating to the child  
31 or, if unborn, the pregnancy.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (b) The child has been abandoned when the parent of a  
2 child is incarcerated on or after October 1, 1998, in a state  
3 or federal correctional institution and sentenced to a term of  
4 incarceration of 8 years or longer, regardless of how long the  
5 person is actually incarcerated under that sentence or how  
6 long the person will be incarcerated after October 1, 1998,  
7 and:

8           1. The period of time for which the parent is expected  
9 to be incarcerated will constitute a substantial portion of  
10 the period of time before the child will attain the age of 18  
11 years;

12           2. The incarcerated parent has been determined by the  
13 court to be a violent career criminal as defined in s.  
14 775.084, a habitual violent felony offender as defined in s.  
15 775.084, or a sexual predator as defined in s. 775.21; has  
16 been convicted of first degree or second degree murder in  
17 violation of s. 782.04 or a sexual battery that constitutes a  
18 capital, life, or first degree felony violation of s. 794.011;  
19 or has been convicted of an offense in another jurisdiction  
20 which is substantially similar to one of the offenses listed  
21 in this paragraph. As used in this section, the term  
22 "substantially similar offense" means any offense that is  
23 substantially similar in elements and penalties to one of  
24 those listed in this paragraph, and that is in violation of a  
25 law of any other jurisdiction, whether that of another state,  
26 the District of Columbia, the United States or any possession  
27 or territory thereof, or any foreign jurisdiction; and

28           3. The court determines by clear and convincing  
29 evidence that continuing the parental relationship with the  
30 incarcerated parent would be harmful to the child and, for  
31 this reason, that termination of the parental rights of the



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 incarcerated parent is in the best interest of the child.

2 (c) The only conduct of a father toward a mother  
3 during pregnancy that the court may consider in determining  
4 whether the child has been abandoned is conduct that occurred  
5 after reasonable and diligent efforts have been made to inform  
6 the father that he is, or may be, the father of the child.

7 (5) DISMISSAL OF CASE WITH PREJUDICE.--If the court  
8 does not find by clear and convincing evidence that parental  
9 rights of a birth parent should be terminated pending  
10 adoption, the court must dismiss the case with prejudice and  
11 that birth parent's parental rights remain in full force under  
12 the law. Parental rights may not be terminated based upon a  
13 consent that the court finds has been timely withdrawn under  
14 s. 63.082 or a consent or affidavit of nonpaternity that the  
15 court finds was obtained by fraud. The court must enter an  
16 order based upon written findings providing for the placement  
17 of the minor. The court may order scientific testing to  
18 determine the paternity of the minor at any time during which  
19 the court has jurisdiction over the minor. Further  
20 proceedings, if any, regarding the minor must be brought in a  
21 separate custody action under chapter 61, a dependency action  
22 under chapter 39, or a paternity action under chapter 742.

23 (6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING  
24 ADOPTION.--

25 (a) The judgment terminating parental rights pending  
26 adoption must be in writing and contain findings of fact as to  
27 the grounds for terminating parental rights pending adoption.

28 (b) The clerk of the court shall mail a copy of the  
29 judgment within 24 hours after filing to the department, the  
30 petitioner, and the respondent. The clerk shall execute a  
31 certificate of each mailing.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (c) A judgment terminating parental rights pending  
2 adoption is voidable and any later judgment of adoption of  
3 that minor is voidable if, upon the motion of a birth parent,  
4 the court finds that a person knowingly gave false information  
5 that prevented the birth parent from timely making known his  
6 or her desire to assume parental responsibilities toward the  
7 minor or meeting the requirements under this chapter to  
8 exercise his or her parental rights. A motion under this  
9 paragraph must be filed with the court originally entering the  
10 judgment. The motion must be filed within a reasonable time,  
11 but not later than 1 year after the date the termination of  
12 parental rights final order was entered.

13           (d) Not later than 30 days after the filing of a  
14 motion under this subsection, the court must conduct a  
15 preliminary hearing to determine what contact, if any, shall  
16 be permitted between a birth parent and the child pending  
17 resolution of the motion. Such contact shall only be  
18 considered if it is requested by a birth parent who has  
19 appeared at the hearing. If the court orders contact between a  
20 birth parent and child, the order must be issued in writing as  
21 expeditiously as possible and must state with specificity any  
22 provisions regarding contact with persons other than those  
23 with whom the child resides.

24           (e) At the preliminary hearing, the court, upon the  
25 motion of any party or its own motion, may order scientific  
26 testing to determine the paternity of the minor if the person  
27 seeking to set aside the judgment is alleging to be the  
28 child's birth father and that fact has not previously been  
29 determined by legitimacy or scientific testing. The court may  
30 order supervised visitation with a person from whom scientific  
31 testing for paternity has been ordered conditional upon the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 filing of those test results with the court and such results  
2 establish that person's paternity of the minor.

3 (f) No later than 45 days after the preliminary  
4 hearing, the court must conduct a final hearing on the motion  
5 to set aside the judgment and issue its written order as  
6 expeditiously as possible thereafter.

7 (7) RECORDS; CONFIDENTIAL INFORMATION.--All records  
8 pertaining to a petition to terminate parental rights pending  
9 adoption are records related to the subsequent adoption of the  
10 minor and are subject to the provisions of s. 63.162, as such  
11 provisions apply to records of an adoption proceeding. The  
12 confidentiality provisions of this chapter do not apply to the  
13 extent information regarding persons or proceedings must be  
14 made available as specified under s. 63.088.

15 Section 32. Section 63.092, Florida Statutes, is  
16 amended to read:

17 63.092 Report to the court of intended placement by an  
18 intermediary; preliminary study.--

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

26 (2) AT-RISK PLACEMENT.--If the minor is placed in the  
27 prospective adoptive home before the parental rights of the  
28 minor's birth parents are terminated under s. 63.089, the  
29 placement is an at-risk placement. If the placement is an  
30 at-risk placement, the prospective adoptive parents must  
31 acknowledge in writing before the minor may be placed in the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 prospective adoptive home that the placement is at risk and  
2 that the minor is subject to removal from the prospective  
3 adoptive home by the adoption entity or by court order.

4 (3)(2) PRELIMINARY HOME STUDY.--Before placing the  
5 minor in the intended adoptive home, a preliminary home study  
6 must be performed by a licensed child-placing agency, a  
7 licensed professional, or agency described in s. 61.20(2),  
8 unless the petitioner is a stepparent, a spouse of the birth  
9 parent, or a relative. The preliminary study shall be  
10 completed within 30 days after the receipt by the court of the  
11 adoption entity's intermediary's report, but in no event may  
12 the minor child be placed in the prospective adoptive home  
13 prior to the completion of the preliminary study unless  
14 ordered by the court. If the petitioner is a stepparent, a  
15 spouse of the birth parent, or a relative, the preliminary  
16 home study may be required by the court for good cause shown.  
17 The department is required to perform the preliminary home  
18 study only if there is no licensed child-placing agency,  
19 licensed professional, or agency described in s. 61.20(2), in  
20 the county where the prospective adoptive parents reside. The  
21 preliminary home study must be made to determine the  
22 suitability of the intended adoptive parents and may be  
23 completed prior to identification of a prospective adoptive  
24 minor child. A favorable preliminary home study is valid for  
25 1 year after the date of its completion. A minor may child  
26 ~~must~~ not be placed in an intended adoptive home before a  
27 favorable preliminary home study is completed unless the  
28 adoptive home is also a licensed foster home under s. 409.175.  
29 The preliminary home study must include, at a minimum:  
30 (a) An interview with the intended adoptive parents;  
31 (b) Records checks of the department's central abuse

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 registry under chapter 415 and statewide criminal records  
 2 correspondence checks through the Department of Law  
 3 Enforcement on the intended adoptive parents;  
 4 (c) An assessment of the physical environment of the  
 5 home;  
 6 (d) A determination of the financial security of the  
 7 intended adoptive parents;  
 8 (e) Documentation of counseling and education of the  
 9 intended adoptive parents on adoptive parenting;  
 10 (f) Documentation that information on adoption and the  
 11 adoption process has been provided to the intended adoptive  
 12 parents;  
 13 (g) Documentation that information on support services  
 14 available in the community has been provided to the intended  
 15 adoptive parents; and  
 16 (h) A copy of each ~~the~~ signed acknowledgement  
 17 ~~statement~~ required by s. 63.085; ~~and~~  
 18 ~~(i) A copy of the written acknowledgment required by~~  
 19 ~~s. 63.085(1).~~  
 20  
 21 If the preliminary home study is favorable, a minor may be  
 22 placed in the home pending entry of the judgment of adoption.  
 23 A minor may not be placed in the home if the preliminary home  
 24 study is unfavorable. If the preliminary home study is  
 25 unfavorable, the intermediary or petitioner may, within 20  
 26 days after receipt of a copy of the written recommendation,  
 27 petition the court to determine the suitability of the  
 28 intended adoptive home. A determination as to suitability  
 29 under this subsection does not act as a presumption of  
 30 suitability at the final hearing. In determining the  
 31 suitability of the intended adoptive home, the court must

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 consider the totality of the circumstances in the home.

2 Section 33. Section 63.097, Florida Statutes, is  
3 amended to read:

4 63.097 Fees.--

5 (1) The following fees, costs, and expenses may be  
6 assessed by the adoption entity or paid by the adoption entity  
7 on behalf of the prospective adoptive parents:

8 (a) Reasonable living expenses of the birth mother  
9 which the birth mother is unable to pay due to involuntary  
10 unemployment, medical disability due to the pregnancy which is  
11 certified by a medical professional who has examined the birth  
12 mother, or any other disability defined in s. 110.215.

13 Reasonable living expenses are rent, utilities, basic  
14 telephone service, food, necessary clothing, transportation,  
15 and items included in the affidavit filed under s. 63.132 and  
16 found by the court to be necessary for the health of the  
17 unborn child.

18 (b) Reasonable and necessary medical expenses.

19 (c) Expenses necessary to comply with the requirements  
20 of this chapter including, but not limited to, service of  
21 process under s. 63.088, a due diligence search under s.  
22 63.088, a preliminary home study under s. 63.092, and a final  
23 home study under s. 63.125.

24 (d) Court filing expenses, court costs, and other  
25 litigation expenses.

26 (e) Costs associated with advertising under s.  
27 63.212(1)(h).

28 (f) The following professional fees:

29 1. A reasonable hourly fee necessary to provide legal  
30 representation to the adoptive parents in a proceeding filed  
31 under this chapter.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           2. A reasonable hourly fee for contact with the birth  
2 parent related to the adoption. In determining a reasonable  
3 hourly fee under this subparagraph, the court must consider if  
4 the tasks done were clerical or of such a nature that the  
5 matter could have been handled by support staff at a lesser  
6 rate than the rate for legal representation charged under  
7 subparagraph 1. This includes, but need not be limited to,  
8 tasks such as transportation, transmitting funds, arranging  
9 appointments, and securing accommodations. This does not  
10 include obtaining a birth parent's signature on any document.

11           3. A reasonable hourly fee for counseling services  
12 provided to a birth parent or adoptive parent by a  
13 psychologist licensed under chapter 490 or a clinical social  
14 worker, marriage and family therapist, or mental health  
15 counselor licensed under chapter 491.

16           (2) Prior approval of the court is not required until  
17 the cumulative total of amounts permitted under subsection (1)  
18 exceeds:

19           (a) \$2,500 in legal or other fees;

20           (b) \$500 in court costs; or

21           (c) \$3,000 in expenditures.

22           (3) Any fees, costs, or expenditures not included in  
23 subsection (1) or prohibited under subsection (4) require  
24 court approval prior to payment and must be based on a finding  
25 of extraordinary circumstances.

26           (4) The following fees, costs, and expenses are  
27 prohibited:

28           1. Any fee or expense that constitutes payment for  
29 locating a minor for adoption.

30           2. Cumulative expenses in excess of a total of \$500  
31 related to the minor, the pregnancy, a birth parent, or

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 adoption proceeding which are incurred prior to the date the  
2 prospective adoptive parent retains the adoption entity.

3 3. Any lump-sum payment to the entity which is  
4 nonrefundable directly to the payor or which is not itemized  
5 on the affidavit filed under s. 63.132.

6 4. Any fee on the affidavit which does not specify the  
7 service that was provided and for which the fee is being  
8 charged, such as a fee for facilitation, acquisition, or other  
9 similar service, or which does not identify the date the  
10 service was provided, the time required to provide the  
11 service, the person or entity providing the service, and the  
12 hourly fee charged.

13 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES.--Any fee over~~  
14 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~  
15 ~~\$2,500, paid to an intermediary other than actual, documented~~  
16 ~~medical costs, court costs, and hospital costs must be~~  
17 ~~approved by the court prior to assessment of the fee by the~~  
18 ~~intermediary and upon a showing of justification for the~~  
19 ~~larger fee.~~

20 ~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--When an~~  
21 ~~intermediary uses the services of a licensed child-placing~~  
22 ~~agency, a professional, any other person or agency pursuant to~~  
23 ~~s. 63.092, or, if necessary, the department, the person~~  
24 ~~seeking to adopt the child must pay the licensed child-placing~~  
25 ~~agency, professional, other person or agency, or the~~  
26 ~~department an amount equal to the cost of all services~~  
27 ~~performed, including, but not limited to, the cost of~~  
28 ~~conducting the preliminary home study, counseling, and the~~  
29 ~~final home investigation. The court, upon a finding that the~~  
30 ~~person seeking to adopt the child is financially unable to pay~~  
31 ~~that amount, may order that such person pay a lesser amount.~~



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           Section 34. Section 63.102, Florida Statutes, is  
2 amended to read:

3           63.102 Filing of petition; venue; proceeding for  
4 approval of fees and costs.--

5           (1) After a court order terminating parental rights  
6 has been issued,a proceeding for adoption may shall be  
7 commenced by filing a petition entitled, "In the Matter of the  
8 Adoption of ...." in the circuit court. The person to be  
9 adopted shall be designated in the caption in the name by  
10 which he or she is to be known if the petition is granted. ~~if~~  
11 ~~the child is placed for adoption by an agency,~~Any name by  
12 which the minor child was previously known may shall not be  
13 disclosed in the petition, the notice of hearing, or the  
14 judgment of adoption.

15           (2) A petition for adoption or for a declaratory  
16 statement as to the adoption contract shall be filed in the  
17 county where the petitioner or petitioners or the minor child  
18 resides or where the agency or intermediary with ~~in~~ which the  
19 minor child has been placed is located.

20           (3) Except for adoptions involving placement of a  
21 minor child with a relative within the third degree of  
22 consanguinity, a petition for adoption in an adoption handled  
23 by an intermediary shall be filed within 30 working days after  
24 placement of a minor child with a parent seeking to adopt the  
25 minor child. If no petition is filed within 30 days, any  
26 interested party, including the state, may file an action  
27 challenging the prospective adoptive parent's physical custody  
28 of the minor child.

29           (4) If the filing of the petition for adoption or for  
30 a declaratory statement as to the adoption contract in the  
31 county where the petitioner or minor child resides would tend

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 to endanger the privacy of the petitioner or minor child, the  
2 petition for adoption may be filed in a different county,  
3 provided the substantive rights of any person will not thereby  
4 be affected.

5 (5) A proceeding for prior approval of fees and costs  
6 may be commenced any time after an agreement is reached  
7 between the birth mother and the adoptive parents by filing a  
8 petition for declaratory statement on the agreement entitled  
9 "In the Matter of the Proposed Adoption of a Minor Child" in  
10 the circuit court.

11 (a) The petition must be filed jointly by the adoption  
12 entity and each person who enters into the agreement.

13 (b) A contract for the payment of fees, costs, and  
14 expenditures permitted under this chapter must be in writing,  
15 and any person who enters into the contract has 3 business  
16 days in which to cancel the contract. To cancel the contract,  
17 the person must notify the adoption entity in writing by  
18 certified United States mail, return receipt requested, no  
19 later than 3 business days after signing the contract. For the  
20 purposes of this subsection, the term "business day" means a  
21 day on which the United States Post Office accepts certified  
22 mail for delivery. If the contract is canceled within the  
23 first 3 business days, the person who cancels the contract  
24 does not owe any legal, intermediary, or other fees, but may  
25 be responsible for the adoption entity's actual costs during  
26 that time.

27 (c) The court may grant prior approval only of fees  
28 and expenditures permitted under s. 63.097. A prior approval  
29 of prospective fees and costs does not create a presumption  
30 that these items will subsequently be approved by the court  
31 under s. 63.132 unless such a finding is supported by the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 evidence submitted at that time. The court retains  
2 jurisdiction to order an adoption entity to refund to the  
3 person who enters into the contract any sum or portion of a  
4 sum preapproved under this subsection if, upon submission of a  
5 complete accounting of fees, costs, and expenses in an  
6 affidavit required under s. 63.132, the court finds the fees,  
7 costs, and expenses actually incurred to be less than the sums  
8 approved prospectively under this subsection.

9 (d) The contract may not require, and the court may  
10 not approve, any lump-sum payment to the entity which is  
11 nonrefundable to the payor or any amount that constitutes  
12 payment for locating a minor for adoption.

13 (e) If a petition for adoption is filed under this  
14 section subsequent to the filing of a petition for a  
15 declaratory statement or a petition to terminate parental  
16 rights pending adoption, the previous petition may, at the  
17 request of any party or on the court's own motion, be  
18 consolidated with the petition for adoption. If the petition  
19 for adoption is consolidated with a prior petition filed under  
20 this chapter for which a filing fee has been paid, the  
21 petitioner may not be charged any subsequent or additional  
22 filing fee.

23 (f) Prior approval of fees and costs by the court does  
24 not obligate the birth parent to ultimately relinquish the  
25 minor for adoption.~~If a petition for adoption is subsequently~~  
26 ~~filed, the petition for declaratory statement and the petition~~  
27 ~~for adoption must be consolidated into one case.~~

28 Section 35. Section 63.112, Florida Statutes, is  
29 amended to read:

30 63.112 Petition for adoption; description; report or  
31 recommendation, exceptions; mailing.--

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

- 1           (1) A sufficient number of copies of the petition for  
 2 adoption shall be signed and verified by the petitioner and  
 3 filed with the clerk of the court so that service may be made  
 4 under subsection (4) and shall state:
- 5           (a) The date and place of birth of the person to be  
 6 adopted, if known;
- 7           (b) The name to be given to the person to be adopted;
- 8           (c) The date petitioner acquired custody of the minor  
 9 and the name of the person placing the minor;
- 10          (d) The full name, age, and place and duration of  
 11 residence of the petitioner;
- 12          (e) The marital status of the petitioner, including  
 13 the date and place of marriage, if married, and divorces, if  
 14 any;
- 15          (f) The facilities and resources of the petitioner,  
 16 including those under a subsidy agreement, available to  
 17 provide for the care of the minor to be adopted;
- 18          (g) A description and estimate of the value of any  
 19 property of the person to be adopted;
- 20          (h) The case style and date of entry of the order  
 21 terminating parental rights or the judgment declaring a minor  
 22 available for adoption name and address, if known, of any  
 23 ~~person whose consent to the adoption is required, but who has~~  
 24 ~~not consented, and facts or circumstances that excuse the lack~~  
 25 ~~of consent; and~~
- 26          (i) The reasons why the petitioner desires to adopt  
 27 the person.
- 28          (2) The following documents are required to be filed  
 29 with the clerk of the court at the time the petition is filed:
- 30          (a) A certified copy of the court order terminating  
 31 parental rights under chapter 39 or the judgment declaring a

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 minor available for adoption under this chapter ~~The required~~  
 2 ~~consents, unless consent is excused by the court.~~

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

7 (c) The surrender document must include documentation  
 8 that an interview was ~~interviews were~~ held with:

9 1. ~~The birth mother, if parental rights have not been~~  
 10 ~~terminated;~~

11 2. ~~The birth father, if his consent to the adoption is~~  
 12 ~~required and parental rights have not been terminated; and~~

13 3. ~~the~~ minor child, if older than 12 years of age,  
 14 unless the court, in the best interest of the minor child,  
 15 dispenses with the minor's ~~child's~~ consent under s.  
 16 63.062(1)(e) ~~63.062(1)(c)~~.

17  
 18 ~~The court may waive the requirement for an interview with the~~  
 19 ~~birth mother or birth father in the investigation for good~~  
 20 ~~cause shown.~~

21 (3) Unless ordered by the court, no report or  
 22 recommendation is required when the placement is a stepparent  
 23 adoption or when the minor child is related to one of the  
 24 adoptive parents within the third degree.

25 (4) The clerk of the court shall mail a copy of the  
 26 petition within 24 hours after filing, and execute a  
 27 certificate of mailing, to the department and the agency  
 28 placing the minor, if any.

29 Section 36. Section 63.122, Florida Statutes, is  
 30 amended to read:

31 63.122 Notice of hearing on petition.--

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (1) After the petition to adopt a minor is filed, the  
2 court must establish a time and place for hearing the  
3 petition. The hearing ~~may~~ ~~must~~ not be held sooner than 30 days  
4 after the date the judgment terminating parental rights was  
5 entered or sooner than 90 days after the date the minor was  
6 placed ~~the placing of the minor~~ in the physical custody of the  
7 petitioner. The minor must remain under the supervision of  
8 the department, an intermediary, or a licensed child-placing  
9 agency until the adoption becomes final. When the petitioner  
10 is a spouse of the birth parent, the hearing may be held  
11 immediately after the filing of the petition.

12           (2) Notice of hearing must be given as prescribed by  
13 the rules of civil procedure, and service of process must be  
14 made as specified by law for civil actions.

15           (3) Upon a showing by the petitioner that the privacy  
16 of the petitioner or minor ~~child~~ may be endangered, the court  
17 may order the names of the petitioner or minor ~~child~~, or both,  
18 to be deleted from the notice of hearing and from the copy of  
19 the petition attached thereto, provided the substantive rights  
20 of any person will not thereby be affected.

21           (4) Notice of the hearing must be given by the  
22 petitioner to the adoption entity that places the minor.+

23           ~~(a) The department or any licensed child-placing~~  
24 ~~agency placing the minor.~~

25           ~~(b) The intermediary.~~

26           ~~(c) Any person whose consent to the adoption is~~  
27 ~~required by this act who has not consented, unless such~~  
28 ~~person's consent is excused by the court.~~

29           ~~(d) Any person who is seeking to withdraw consent.~~

30           (5) After filing the petition to adopt an adult, a  
31 notice of the time and place of the hearing must be given to

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 any person whose consent to the adoption is required but who  
2 has not consented. The court may order an appropriate  
3 investigation to assist in determining whether the adoption is  
4 in the best interest of the persons involved.

5 Section 37. Section 63.125, Florida Statutes, is  
6 amended to read:

7 63.125 Final home investigation.--

8 (1) The final home investigation must be conducted  
9 before the adoption becomes final. The investigation may be  
10 conducted by a licensed child-placing agency or a professional  
11 in the same manner as provided in s. 63.092 to ascertain  
12 whether the adoptive home is a suitable home for the minor and  
13 whether the proposed adoption is in the best interest of the  
14 minor. Unless directed by the court, an investigation and  
15 recommendation are not required if the petitioner is a  
16 stepparent or if the minor child is related to one of the  
17 adoptive parents within the third degree of consanguinity.  
18 The department is required to perform the home investigation  
19 only if there is no licensed child-placing agency or  
20 professional pursuant to s. 63.092 in the county in which the  
21 prospective adoptive parent resides.

22 (2) The department, the licensed child-placing agency,  
23 or the professional that performs the investigation must file  
24 a written report of the investigation with the court and the  
25 petitioner within 90 days after the date the petition is  
26 filed.

27 (3) The report of the investigation must contain an  
28 evaluation of the placement with a recommendation on the  
29 granting of the petition for adoption and any other  
30 information the court requires regarding the petitioner or the  
31 minor.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           (4) The department, the licensed child-placing agency,  
2 or the professional making the required investigation may  
3 request other state agencies or child-placing agencies within  
4 or outside this state to make investigations of designated  
5 parts of the inquiry and to make a written report to the  
6 department, the professional, or other person or agency.

7           (5) The final home investigation must include:

8           (a) The information from the preliminary home study.

9           (b) After the minor child is placed in the intended  
10 adoptive home, two scheduled visits with the minor child and  
11 the minor's child's adoptive parent or parents, one of which  
12 visits must be in the home, to determine the suitability of  
13 the placement.

14           (c) The family social and medical history as provided  
15 in s. 63.082.

16           (d) Any other information relevant to the suitability  
17 of the intended adoptive home.

18           (e) Any other relevant information, as provided in  
19 rules that the department may adopt.

20           Section 38. Section 63.132, Florida Statutes, is  
21 amended to read:

22           63.132 Affidavit ~~Report~~ of expenditures and  
23 receipts.--

24           (1) At least 10 days before the hearing on the  
25 petition for adoption, the petitioner and any adoption entity  
26 intermediary must file two copies of an affidavit under this  
27 section.

28           (a) The affidavit must be signed by the adoption  
29 entity and the prospective adoptive parents. A copy of the  
30 affidavit must be provided to the adoptive parents at the time  
31 the affidavit is executed.



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           **(b)** The affidavit must itemize containing a full  
2 accounting of all disbursements and receipts of anything of  
3 value, including professional and legal fees, made or agreed  
4 to be made by or on behalf of the petitioner and any adoption  
5 entity intermediary in connection with the adoption or in  
6 connection with any prior proceeding to terminate parental  
7 rights which involved the minor who is the subject of the  
8 petition for adoption. The affidavit must also include, for  
9 each fee itemized, the service provided for which the fee is  
10 being charged, the date the service was provided, the time  
11 required to provide the service, the person or entity that  
12 provided the service, and the hourly fee charged.

13           **(c)** The clerk of the court shall forward a copy of the  
14 affidavit to the department. The department must retain these  
15 records for 5 years. Copies of affidavits received by the  
16 department under this subsection must be provided upon the  
17 request of any person. The department must redact all  
18 identifying references to the minor, the birth parent, or the  
19 adoptive parent from any affidavit released by the department.  
20 The name of the adoption entity may not be redacted. The  
21 intent of this paragraph is to create a resource for adoptive  
22 parents and others wishing to obtain information about the  
23 cost of adoption in this state.

24           **(d)** The affidavit report must show any expenses or  
25 receipts incurred in connection with:  
26           1.(a) The birth of the minor.  
27           2.(b) The placement of the minor with the petitioner.  
28           3.(c) The medical or hospital care received by the  
29 mother or by the minor during the mother's prenatal care and  
30 confinement.  
31           4.(d) The living expenses of the birth mother. The

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 living expenses must be documented in detail to apprise the  
2 court of the exact expenses incurred.

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

7  
8 The affidavit must state whether any of these expenses were or  
9 are eligible to be paid for by collateral sources, including,  
10 but not limited to, health insurance, Medicaid, Medicare, or  
11 public assistance.

12 (2) The court may require such additional information  
13 as is deemed necessary.

14 (3) The court must issue a separate order approving or  
15 disapproving the fees, costs, and expenditures itemized in the  
16 affidavit. The court may approve only fees, costs, and  
17 expenditures allowed under s. 63.097. The court may reject in  
18 whole or in part any fee, cost, or expenditure listed if the  
19 court finds that the expense is:

20 (a) Contrary to this chapter;

21 (b) Not supported by a receipt in the record, if the  
22 expense is not a fee of the adoption entity; or

23 (c) Not deemed by the court to be a reasonable fee or  
24 expense, taking into consideration the requirements of this  
25 chapter and the totality of the circumstances.

26 (4)(3) This section does not apply to an adoption by a  
27 stepparent whose spouse is a birth natural or adoptive parent  
28 of the minor child.

29 Section 39. Section 63.142, Florida Statutes, is  
30 amended to read:

31 63.142 Hearing; judgment of adoption.--

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

- 1           (1) APPEARANCE.--The petitioner and the person to be  
 2 adopted shall appear at the hearing on the petition for  
 3 adoption, unless:
- 4           (a) The person is a minor under 12 years of age; ~~or~~  
 5           (b) The presence of either is excused by the court for  
 6 good cause.
- 7           (2) CONTINUANCE.--The court may continue the hearing  
 8 from time to time to permit further observation,  
 9 investigation, or consideration of any facts or circumstances  
 10 affecting the granting of the petition.
- 11           (3) DISMISSAL.--
- 12           (a) If the petition is dismissed, the court shall  
 13 determine the person that is to have custody of the minor.  
 14           (b) If the petition is dismissed, the court shall  
 15 state with specificity the reasons for the dismissal.
- 16           (4) JUDGMENT.--At the conclusion of the hearing, after  
 17 ~~when~~ the court determines that the date for a birth parent to  
 18 file an appeal of a valid judgment terminating that birth  
 19 parent's parental rights has passed and no appeal is pending  
 20 ~~all necessary consents have been obtained~~ and that the  
 21 adoption is in the best interest of the person to be adopted,  
 22 a judgment of adoption shall be entered.
- 23           (a) A judgment terminating parental rights pending  
 24 adoption is voidable and any later judgment of adoption of  
 25 that minor is voidable if, upon the motion of the birth  
 26 parent, the court finds that any person knowingly gave false  
 27 information that prevented the birth parent from timely making  
 28 known his or her desire to assume parental responsibilities  
 29 toward the minor or meeting the requirements under this  
 30 chapter to exercise his or her parental rights. A motion under  
 31 this paragraph must be filed with the court that entered the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 original judgment. The motion must be filed within a  
2 reasonable time, but not later than 1 year after the date the  
3 termination of parental rights final order was entered.

4 (b) Not later than 30 days after the filing of a  
5 motion under this subsection, the court must conduct a  
6 preliminary hearing to determine what contact, if any, shall  
7 be permitted between a birth parent and the child pending  
8 resolution of the motion. Such contact shall only be  
9 considered if it is requested by a birth parent who has  
10 appeared at the hearing. If the court orders contact between a  
11 birth parent and child, the order must be issued in writing as  
12 expeditiously as possible and must state with specificity any  
13 provisions regarding contact with persons other than those  
14 with whom the child resides.

15 (c) At the preliminary hearing, the court, upon the  
16 motion of any party or its own motion, may order scientific  
17 testing to determine the paternity of the minor if the person  
18 seeking to set aside the judgment is alleging to be the  
19 child's birth father and that fact has not previously been  
20 determined by legitimacy or scientific testing. The court may  
21 order supervised visitation with a person from whom scientific  
22 testing for paternity has been ordered conditional upon the  
23 filing of those test results with the court and such results  
24 establish that person's paternity of the minor.

25 (d) No later than 45 days after the preliminary  
26 hearing, the court must conduct a final hearing on the motion  
27 to set aside the judgment and issue its written order as  
28 expeditiously as possible thereafter.

29 Section 40. Section 63.152, Florida Statutes, is  
30 amended to read:

31 63.152 Application for new birth record.--Within 30

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 days after entry of a judgment of adoption, the clerk of the  
2 court, and in agency adoptions, any child-placing agency  
3 licensed by the department, shall prepare a certified  
4 statement of the entry for the state registrar of vital  
5 statistics on a form provided by the registrar. The clerk of  
6 the court must mail a copy of the form completed under this  
7 section to the state registry of adoption information under s.  
8 63.165.A new birth record containing the necessary  
9 information supplied by the certificate shall be issued by the  
10 registrar on application of the adopting parents or the  
11 adopted person.

12 Section 41. Section 63.165, Florida Statutes, is  
13 amended to read:

14 63.165 State registry of adoption information; duty to  
15 inform and explain.--Notwithstanding any other law to the  
16 contrary, the department shall maintain a registry with the  
17 last known names and addresses of an adoptee and his or her  
18 birth ~~natural~~ parents and adoptive parents; the certified  
19 statement of the final decree of adoption provided by the  
20 clerk of the court under s. 63.152; and any other identifying  
21 information that ~~which~~ the adoptee, birth ~~natural~~ parents, or  
22 adoptive parents desire to include in the registry. The  
23 department shall maintain the registry records for the time  
24 required by rules adopted by the department in accordance with  
25 this chapter or for 99 years, whichever period is greater.The  
26 registry shall be open with respect to all adoptions in the  
27 state, regardless of when they took place. The registry shall  
28 be available for those persons choosing to enter information  
29 therein, but no one shall be required to do so.

30 (1) Anyone seeking to enter, change, or use  
31 information in the registry, or any agent of such person,

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 shall present verification of his or her identity and, if  
2 applicable, his or her authority. A person who enters  
3 information in the registry shall be required to indicate  
4 clearly the persons to whom he or she is consenting to release  
5 this information, which persons shall be limited to the  
6 adoptee and the birth ~~natural~~ mother, birth ~~natural~~ father,  
7 adoptive mother, adoptive father, birth ~~natural~~ siblings, and  
8 maternal and paternal birth ~~natural~~ grandparents of the  
9 adoptee. Except as provided in this section, information in  
10 the registry is confidential and exempt from ~~the provisions of~~  
11 s. 119.07(1). Consent to the release of this information may  
12 be made in the case of a minor adoptee by his or her adoptive  
13 parents or by the court after a showing of good cause. At any  
14 time, any person may withdraw, limit, or otherwise restrict  
15 consent to release information by notifying the department in  
16 writing.

17 (2) The department may charge a reasonable fee to any  
18 person seeking to enter, change, or use information in the  
19 registry. The department shall deposit such fees in a trust  
20 fund to be used by the department only for the efficient  
21 administration of this section. The department and agencies  
22 shall make counseling available for a fee to all persons  
23 seeking to use the registry, and the department shall inform  
24 all affected persons of the availability of such counseling.

25 (3) The department, intermediary, or licensed  
26 child-placing agency must inform the birth parents before  
27 parental rights are terminated, and the adoptive parents  
28 before placement, in writing, of the existence and purpose of  
29 the registry established under this section, but failure to do  
30 so does not affect the validity of any proceeding under this  
31 chapter.

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           Section 42. Section 63.182, Florida Statutes, is  
2 amended to read:

3           (Substantial rewording of section. See  
4           s. 63.182, F.S., for present text.)

5           63.182 Statute of repose.--An action or proceeding of  
6 any kind to vacate, set aside, or otherwise nullify an order  
7 of adoption or an underlying order terminating parental rights  
8 on any ground, including fraud or duress, must be filed within  
9 1 year after entry of the order terminating parental rights.

10          Section 43. Section 63.207, Florida Statutes, is  
11 amended to read:

12          63.207 Out-of-state placement.--

13          (1) Unless the minor child is to be placed with a  
14 relative within the third degree or with a stepparent, or is a  
15 special needs child as defined in s. 409.166, an adoption  
16 entity may not no person except an intermediary, an agency, or  
17 the department shall:

18           (a) Take or send a minor child out of the state for  
19 the purpose of placement for adoption; or

20           (b) Place or attempt to place a minor child for the  
21 purpose of adoption with a family who primarily lives and  
22 works outside Florida in another state. ~~An intermediary may~~  
23 ~~place or attempt to place a child for adoption in another~~  
24 ~~state only if the child is a special needs child as that term~~  
25 ~~is defined in s. 409.166. If an adoption entity intermediary~~  
26 ~~is acting under this subsection, the adoption entity must~~  
27 ~~intermediary shall~~ file a petition for declaratory statement  
28 pursuant to s. 63.102 for prior approval of fees and costs.  
29 The court shall review the costs pursuant to s. 63.097. The  
30 petition for declaratory statement must be converted to a  
31 petition for an adoption upon placement of the minor child in

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 the home. The circuit court in this state must retain  
2 jurisdiction over the matter until the adoption becomes final.  
3 The adoptive parents must come to this state to have the  
4 adoption finalized. Violation of the order subjects the  
5 adoption entity intermediary to contempt of court and to the  
6 penalties provided in s. 63.212.

7 (2) An adoption entity intermediary may not counsel a  
8 birth mother to leave the state for the purpose of giving  
9 birth to a child outside the state in order to secure a fee in  
10 excess of that permitted under s. 63.097 when it is the  
11 intention that the child is to be placed for adoption outside  
12 the state.

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

16 Section 44. Section 63.212, Florida Statutes, is  
17 amended to read:

18 63.212 Prohibited acts; penalties for violation.--

19 (1) It is unlawful for any person:

20 (a) Except an adoption entity ~~the department, an~~  
21 ~~intermediary, or an agency,~~ to place or attempt to place a  
22 minor child for adoption with a person who primarily lives and  
23 works outside this state unless the minor child is placed with  
24 a relative within the third degree or with a stepparent or is  
25 a special needs child as defined in s. 409.166. An adoption  
26 entity intermediary may place or attempt to place a special  
27 needs child for adoption with a person who primarily lives and  
28 works outside this state only if the adoption entity  
29 ~~intermediary~~ has a declaratory statement from the court  
30 establishing the fees to be paid under s. 63.207. This  
31 requirement does not apply if the minor child is placed with a



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 relative within the third degree or with a stepparent.

2 (b) Except an adoption entity ~~the department, an~~  
3 ~~intermediary, or an agency,~~ to place or attempt to place a  
4 minor child for adoption with a family whose primary residence  
5 and place of employment is in another state unless the minor  
6 ~~child~~ is placed with a relative within the third degree or  
7 with a stepparent. An adoption entity ~~intermediary~~ may place  
8 or attempt to place a special needs child for adoption with a  
9 family whose primary residence and place of employment is in  
10 another state only if the adoption entity ~~intermediary~~ has a  
11 declaratory statement from the court establishing the fees to  
12 be paid. This requirement does not apply if the special needs  
13 child is placed with a relative within the third degree or  
14 with a stepparent.

15 (c) Except an adoption entity ~~the Department of~~  
16 ~~Children and Family Services, an agency, or an intermediary,~~  
17 to place or attempt to place within the state a minor child  
18 for adoption unless the minor child is placed with a relative  
19 within the third degree or with a stepparent. This  
20 prohibition, however, does not apply to a person who is  
21 placing or attempting to place a minor child for the purpose  
22 of adoption with the adoption entity ~~Department of Children~~  
23 ~~and Family Services or an agency or through an intermediary.~~

24 (d) To sell or surrender, or to arrange for the sale  
25 or surrender of, a minor child to another person for money or  
26 anything of value or to receive such minor child for such  
27 payment or thing of value. If a minor child is being adopted  
28 by a relative within the third degree or by a stepparent, or  
29 is being adopted through an adoption entity, ~~this paragraph~~  
30 ~~does not prohibit~~ ~~the Department of Children and Family~~  
31 ~~Services, an agency, or an intermediary, nothing herein shall~~

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 ~~be construed as prohibiting~~ the person who is contemplating  
2 adopting the child from paying, under s. 63.097 and s. 63.132,  
3 the actual prenatal care and living expenses of the mother of  
4 the child to be adopted, nor from paying, under s. 63.097 and  
5 s. 63.132, the actual living and medical expenses of such  
6 mother for a reasonable time, not to exceed 6 weeks, if  
7 medical needs require such support, after the birth of the  
8 minor child.

9 (e) Having the rights and duties of a parent with  
10 respect to the care and custody of a minor to assign or  
11 transfer such parental rights for the purpose of, incidental  
12 to, or otherwise connected with, selling or offering to sell  
13 such rights and duties.

14 (f) To assist in the commission of any act prohibited  
15 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),  
16 or paragraph (e).

17 (g) Except an adoption entity ~~the Department of~~  
18 ~~Children and Family Services or an agency,~~ to charge or accept  
19 any fee or compensation of any nature from anyone for making a  
20 referral in connection with an adoption.

21 (h) Except an adoption entity ~~the Department of~~  
22 ~~Children and Family Services, an agency, or an intermediary,~~  
23 to advertise or offer to the public, in any way, by any medium  
24 whatever that a minor child is available for adoption or that  
25 a minor child is sought for adoption; and further, it is  
26 unlawful for any person to publish or broadcast any such  
27 advertisement without including a Florida license number of  
28 the agency ~~or, attorney, or physician~~ placing the  
29 advertisement.

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

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 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 below, but the payment of such expenses  
10 may not be conditioned upon the transfer of parental rights.  
11 Each petition for adoption which is filed in connection with a  
12 preplanned adoption agreement must clearly identify the  
13 adoption as a preplanned adoption arrangement and must include  
14 a copy of the preplanned adoption agreement for review by the  
15 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 that must ~~which shall~~  
31 include, but need not be limited to, the following terms:

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

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 the agreement or if the volunteer mother rescinds her consent

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 to place her child for adoption within 7 days after birth.

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

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

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

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

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

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

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

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

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 arrangement.

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

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

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

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

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

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

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

31 f. "Parties" means the intended father and intended

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 mother, the volunteer mother and her husband, if she has a  
2 husband, who are all parties to the preplanned adoption  
3 agreement.

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

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

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

26 (2) This section does not ~~Nothing herein shall be~~  
27 ~~construed to~~ prohibit a licensed child-placing agency from  
28 charging fees reasonably commensurate to the services  
29 provided.

30 (3) It is unlawful for any adoption entity  
31 ~~intermediary~~ to fail to report to the court, prior to

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

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

5 (4) It is unlawful for any adoption entity  
6 ~~intermediary~~ to charge any fee over \$1,000 and those costs as  
7 set out in paragraph (1)(d) over \$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 adoption entity intermediary and  
11 upon a showing of justification for the larger fee.

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

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

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

29 Section 45. Section 63.072, Florida Statutes, is  
30 repealed.

31 Section 46. Any petition for adoption filed before



Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 October 1, 1998, shall be governed by the law in effect at the  
2 time the petition was filed.

3 Section 47. This act shall take effect October 1,  
4 1998, except that section 1 through section 15 of this act  
5 shall take effect January 1, 1999.

6  
7

8 ===== T I T L E A M E N D M E N T =====

9 And the title is amended as follows:

10 On page 16, line 22, through  
11 page 18, line 25, delete those lines

12

13 and insert:

14 A bill to be entitled  
15 An act relating to children and families;  
16 creating the "Marriage Preparation and  
17 Preservation Act"; providing legislative  
18 findings; amending s. 232.246, F.S.;  
19 prescribing a high school graduation  
20 requirement; amending s. 741.01, F.S.;  
21 providing for a reduction of the marriage  
22 license fee under certain circumstances;  
23 creating a waiting period before a marriage  
24 license is issued; creating s. 741.0305, F.S.;  
25 providing for a premarital preparation course;  
26 providing for modification of marriage license  
27 fees; specifying course providers; providing  
28 course contents; providing for a review of such  
29 courses; providing for compilation of  
30 information and report of findings; providing  
31 for pilot programs; creating s. 741.0306, F.S.;

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 providing for creation of a marriage law  
2 handbook created by the Family Law Section of  
3 The Florida Bar; providing for information that  
4 may be included in the handbook; amending s.  
5 741.04, F.S.; prohibiting issuance of a  
6 marriage license until petitioners verify  
7 certain facts and complete a questionnaire;  
8 providing for a waiting period; providing for a  
9 waiver of the waiting period; amending s.  
10 741.05, F.S.; conforming provisions; amending  
11 s. 61.043, F.S.; providing for completion of an  
12 informational questionnaire upon filing for  
13 dissolution of marriage; amending s. 61.21,  
14 F.S.; revising provisions relating to the  
15 authorized parenting course offered to educate,  
16 train, and assist divorcing parents in regard  
17 to the consequences of divorce on parents and  
18 children; providing legislative findings and  
19 purpose; requiring judicial circuits to approve  
20 a parenting course; requiring parties to a  
21 dissolution proceeding with a minor child to  
22 attend a court-approved parenting family  
23 course; providing procedures and guidelines and  
24 course objectives; requiring parties to file  
25 proof of compliance with the court; authorizing  
26 the court to require parties to a modification  
27 of a final judgment of dissolution to take the  
28 course under certain circumstances; amending s.  
29 28.101, F.S.; providing a fee for filing for  
30 dissolution of marriage; amending s. 25.388,  
31 F.S.; providing funding for the marriage law

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 handbook; providing an appropriation; amending  
2 ss. 39.461, 39.464, 39.469, F.S., relating to  
3 the petition and grounds for terminating  
4 parental rights and powers of disposition;  
5 removing provisions authorizing licensed  
6 child-placing agencies to file actions to  
7 terminate parental rights; amending s. 39.47,  
8 F.S.; providing additional requirements for a  
9 petition for adoption; prohibiting filing such  
10 petition until the order terminating parental  
11 rights is final; amending s. 63.022, F.S.;  
12 revising legislative intent with respect to  
13 adoptions in this state; amending s. 63.032,  
14 F.S.; revising definitions; defining the term  
15 "adoption entity"; creating s. 63.037, F.S.;  
16 exempting adoption proceedings that result from  
17 a termination of parental rights under ch. 39,  
18 F.S., from certain provisions of ch. 63, F.S.;  
19 creating s. 63.038, F.S.; providing criminal  
20 penalties for committing certain fraudulent  
21 acts; creating s. 63.039, F.S.; providing  
22 sanctions and an award of attorney's fees under  
23 certain circumstances; amending s. 63.052,  
24 F.S.; providing for placement of a minor  
25 pending adoption; specifying the jurisdiction  
26 of the court over a minor who has been placed  
27 for adoption; amending s. 63.062, F.S.;  
28 specifying additional persons who must consent  
29 to an adoption, execute an affidavit of  
30 nonpaternity, or receive notice of proceedings  
31 to terminate parental rights; permitting an

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 affidavit of nonpaternity under certain  
2 circumstances; amending s. 63.082, F.S.;  
3 revising requirements for executing a consent  
4 to an adoption; providing a time period for  
5 withdrawing consent; providing additional  
6 disclosure requirements; amending s. 63.085,  
7 F.S.; specifying information that must be  
8 disclosed to persons seeking to adopt a minor  
9 and to the birth parents; creating s. 63.087,  
10 F.S.; requiring that a separate proceeding be  
11 conducted by the court to determine whether a  
12 birth parent's parental rights should be  
13 terminated; providing for rules, jurisdiction,  
14 and venue for such proceedings; providing  
15 requirements for the petition and hearing;  
16 creating s. 63.088, F.S.; providing  
17 requirements for identifying and locating a  
18 person who is required to consent to an  
19 adoption or receive notice of proceedings to  
20 terminate parental rights; providing  
21 requirements for the notice; providing  
22 requirements for conducting a diligent search  
23 for such person whose location is unknown;  
24 requiring that an unlocated or unidentified  
25 person be served notice by constructive  
26 service; providing that failure to respond or  
27 appear constitutes grounds to terminate  
28 parental rights pending adoption; creating s.  
29 63.089, F.S.; providing procedures for the  
30 proceeding to terminate parental rights pending  
31 adoption; specifying the matters to be

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1           determined; specifying grounds upon which  
2           parental rights may be terminated; providing  
3           for procedures following a judgment; providing  
4           for records to be made part of the subsequent  
5           adoption; amending s. 63.092, F.S.; providing  
6           requirements to be met if a prospective  
7           placement in an adoptive home is an at-risk  
8           placement; defining at-risk placement; amending  
9           s. 63.097, F.S.; revising requirements for the  
10          court in approving specified fees and costs;  
11          amending s. 63.102, F.S.; revising requirements  
12          for filing a petition for adoption; providing  
13          requirements for prior approval of fees and  
14          costs; amending s. 63.112, F.S.; revising  
15          requirements for the information that must be  
16          included in a petition for adoption; amending  
17          s. 63.122, F.S.; revising the time requirements  
18          for hearing a petition for adoption; amending  
19          s. 63.125, F.S., relating to the final home  
20          investigation; conforming provisions to changes  
21          made by the act; amending s. 63.132, F.S.;  
22          revising requirements for the report of  
23          expenditures and receipts which is filed with  
24          the court; amending s. 63.142, F.S.; specifying  
25          circumstances under which a judgment  
26          terminating parental rights pending adoption is  
27          voidable; providing for an evidentiary hearing  
28          to determine the minor's placement following a  
29          motion to void such a judgment; amending s.  
30          63.152, F.S.; requiring that the clerk of the  
31          court mail a copy of a new birth record to the

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 state registry of adoption information;  
2 amending s. 63.165, F.S.; requiring that a copy  
3 of the certified statement of final decree of  
4 adoption be included in the state registry of  
5 adoption information; requiring that the  
6 Department of Children and Family Services  
7 maintain such information for a specified  
8 period; amending s. 63.182, F.S.; requiring  
9 that an action to vacate an order of adoption  
10 or an order terminating parental rights pending  
11 adoption be filed within a specified period  
12 after entry of the order; amending s. 63.207,  
13 F.S.; revising provisions that limit the  
14 placement of a minor in another state for  
15 adoption; amending s. 63.212, F.S., relating to  
16 prohibitions and penalties with respect to  
17 adoptions; conforming provisions to changes  
18 made by the act; repealing s. 63.072, F.S.,  
19 relating to persons who may waive required  
20 consent to an adoption; requiring that a  
21 petition for adoption be governed by the law in  
22 effect at the time the petition is filed;  
23 providing effective dates.

24  
25 WHEREAS, the Florida Legislature endorses and  
26 encourages marriage as a means of promoting stability and  
27 continuity in society, and

28 WHEREAS, children of divorced parents can suffer  
29 long-lasting adverse consequences from the break-up of their  
30 parents' relationship and the existing family law system, and

31 WHEREAS, recent annual statistics show that for every

Bill No. CS for CS for SB 1576

Amendment No. \_\_\_\_

1 two marriages in Florida, one ends in divorce, and  
2           WHEREAS, the state has a compelling interest in  
3 promoting those relationships which inure to the benefit of  
4 Florida's children, and  
5           WHEREAS, the state has a compelling interest in  
6 educating its citizens with regard to the responsibilities of  
7 marriage and, if contemplated, the effects of divorce, NOW,  
8 THEREFORE,

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31