

Bill No. CS for SB 2170

Amendment No. ____

CHAMBER ACTION

Senate

House

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Senator Dudley moved the following amendment:

Senate Amendment (with title amendment)

On page 198, line 9, through
page 219, line 2, delete those lines

and insert:

Section 67. Section 39.461, Florida Statutes, is
renumbered as section 39.802, Florida Statutes, and amended to
read:

39.802 ~~39.461~~ Petition for termination of parental
rights; filing; elements.--

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

(2) The form of the petition is governed by the
Florida Rules of Juvenile Procedure. The petition must be in

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1 writing and signed by the petitioner or, if the department is
2 the petitioner, by an employee of the department, under oath
3 stating the petitioner's good faith in filing the petition.

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

7 (4) A petition for termination of parental rights
8 filed under this chapter must contain facts supporting the
9 following allegations:

10 (a) That at least one of the grounds listed in s.
11 39.806 has been met.

12 (b) That the parents of the child were informed of
13 their right to counsel at all hearings that they attend and
14 that a dispositional order adjudicating the child dependent
15 was entered in any prior dependency proceeding relied upon in
16 offering a parent a case plan as described in s. 39.806.

17 (c) That the manifest best interests of the child, in
18 accordance with s. 39.810, would be served by the granting of
19 the petition.

20 (5) When a petition for termination of parental rights
21 is filed under s. 39.806(1), a separate petition for
22 dependency need not be filed and the department need not offer
23 the parents a case plan with a goal of reunification, but may
24 instead file with the court a case plan with a goal of
25 termination of parental rights to allow continuation of
26 services until the termination is granted or until further
27 orders of the court are issued.

28 (6) The fact that a child has been previously
29 adjudicated dependent as alleged in a petition for termination
30 of parental rights may be proved by the introduction of a
31 certified copy of the order of adjudication or the order of

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1 disposition of dependency.

2 (7) The fact that the parent of a child was informed
3 of the right to counsel in any prior dependency proceeding as
4 alleged in a petition for termination of parental rights may
5 be proved by the introduction of a certified copy of the order
6 of adjudication or the order of disposition of dependency
7 containing a finding of fact that the parent was so advised.

8 (8) Whenever the department has entered into a case
9 plan with a parent with the goal of reunification, and a
10 petition for termination of parental rights based on the same
11 facts as are covered in the case plan is filed prior to the
12 time agreed upon in the case plan for the performance of the
13 case plan, the petitioner must allege and prove by clear and
14 convincing evidence that the parent has materially breached
15 the provisions of the case plan.

16 Section 68. Section 39.803, Florida Statutes, is
17 created to read:

18 39.803 Identity or location of parent unknown after
19 filing of termination of parental rights petition; special
20 procedures.--

21 (1) If the identity or location of a parent is unknown
22 and a petition for termination of parental rights is filed,
23 the court shall conduct the following inquiry of the parent
24 who is available, or, if no parent is available, of any
25 relative, caregiver, or legal custodian of the child who is
26 present at the hearing and likely to have the information:

27 (a) Whether the mother of the child was married at the
28 probable time of conception of the child or at the time of
29 birth of the child.

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

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

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

7 (e) Whether any man has acknowledged or claimed
8 paternity of the child in a jurisdiction in which the mother
9 resided at the time of or since conception of the child, or in
10 which the child has resided or resides.

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

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

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

20 (5) If the inquiry under subsection (1) identifies a
21 parent or prospective parent, and that person's location is
22 unknown, the court shall direct the department to conduct a
23 diligent search for that person before scheduling an
24 adjudicatory hearing regarding the dependency of the child
25 unless the court finds that the best interest of the child
26 requires proceeding without actual notice to the person whose
27 location is unknown.

28 (6) The diligent search required by subsection (5)
29 must include, at a minimum, inquiries of all known relatives
30 of the parent or prospective parent, inquiries of all offices
31 of program areas of the department likely to have information

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1 about the parent or prospective parent, inquiries of other
2 state and federal agencies likely to have information about
3 the parent or prospective parent, inquiries of appropriate
4 utility and postal providers, and inquiries of appropriate law
5 enforcement agencies.

6 (7) Any agency contacted by a petitioner with a
7 request for information pursuant to subsection (6) shall
8 release the requested information to the petitioner without
9 the necessity of a subpoena or court order.

10 (8) If the inquiry and diligent search identifies a
11 prospective parent, that person must be given the opportunity
12 to become a party to the proceedings by completing a sworn
13 affidavit of parenthood and filing it with the court or the
14 department. A prospective parent who files a sworn affidavit
15 of parenthood while the child is a dependent child but no
16 later than at the time of or prior to the adjudicatory hearing
17 in the termination of parental rights proceeding for the child
18 shall be considered a parent for all purposes under this
19 section.

20 Section 69. Section 39.4627, Florida Statutes, is
21 renumbered as section 39.804, Florida Statutes.

22 Section 70. Section 39.463, Florida Statutes, is
23 renumbered as section 39.805, Florida Statutes, and amended to
24 read:

25 39.805 ~~39.463~~ No answer required.--No answer to the
26 petition or any other pleading need be filed by any child,
27 parent, caregiver, or legal custodian, but any matters which
28 might be set forth in an answer or other pleading may be
29 pleaded orally before the court or filed in writing as any
30 such person may choose. Notwithstanding the filing of any
31 answer or any pleading, the child or parent shall, prior to

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1 the adjudicatory hearing, be advised by the court of the right
2 to counsel and shall be given an opportunity to deny the
3 allegations in the petition for termination of parental rights
4 or to enter a plea to allegations in the petition before the
5 court.

6 Section 71. Section 39.464, Florida Statutes, as
7 amended by chapter 97-276, Laws of Florida, is renumbered as
8 section 39.806, Florida Statutes, and amended to read:

9 39.806 ~~39.464~~ Grounds for termination of parental
10 rights.--

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

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

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

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

30 (b) When the identity or location of the parent or
31 parents is unknown and, ~~if the court requires a diligent~~

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1 ~~search pursuant to s. 39.4625,~~ cannot be ascertained by
2 diligent search ~~as provided in s. 39.4625~~ within 90 days.

3 (c) When the parent or parents engaged in conduct
4 toward the child or toward other children that demonstrates
5 that the continuing involvement of the parent or parents in
6 the parent-child relationship threatens the life, safety or
7 well-being, or physical, mental, or emotional health of the
8 child irrespective of the provision of services. Provision of
9 services may be ~~is~~ evidenced by proof that services were
10 provided through a previous plan or offered as a case plan
11 from a child welfare agency.

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

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

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

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1 the District of Columbia, the United States or any possession
2 or territory thereof, or any foreign jurisdiction; and

3 3. The court determines by clear and convincing
4 evidence that continuing the parental relationship with the
5 incarcerated parent would be harmful to the child and, for
6 this reason, that termination of the parental rights of the
7 incarcerated parent is in the best interest of the child.

8 ~~(e)~~(f) A petition for termination of parental rights
9 may also be filed when a child has been adjudicated dependent,
10 a case plan has been filed with the court, and the child
11 continues to be abused, neglected, or abandoned by the
12 parents. In this case, the failure of the parents to
13 substantially comply for a period of 12 months after an
14 adjudication of the child as a dependent child constitutes
15 evidence of continuing abuse, neglect, or abandonment unless
16 the failure to substantially comply with the case plan was due
17 either to the lack of financial resources of the parents or to
18 the failure of the department to make reasonable efforts to
19 reunify the family. Such 12-month period may begin to run only
20 after the entry of a disposition order placing the custody of
21 the child with the department or a person other than the
22 parent and the approval by ~~subsequent filing with~~ the court of
23 a case plan with a goal of reunification with the parent.

24 ~~(f)~~(e) When the parent or parents engaged in egregious
25 conduct or had the opportunity and capability to prevent and
26 knowingly failed to prevent egregious conduct threatening the
27 life, safety, or physical, mental, or emotional health ~~that~~
28 ~~endangers the life, health, or safety~~ of the child or the
29 child's sibling ~~or had the opportunity and capability to~~
30 ~~prevent egregious conduct that threatened the life, health, or~~
31 ~~safety of the child or the child's sibling and knowingly~~

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1 ~~failed to do so.~~

2 1. As used in this subsection, the term "sibling"
3 means another child who resides with or is cared for by the
4 parent or parents regardless of whether the child is related
5 legally or by consanguinity.

6 2. As used in this subsection, the term "egregious
7 conduct abuse" means abuse, abandonment, neglect, or any other
8 conduct of the parent or parents that is deplorable, flagrant,
9 or outrageous by a normal standard of conduct. Egregious
10 conduct abuse may include an act or omission that occurred
11 only once but was of such intensity, magnitude, or severity as
12 to endanger the life of the child.

13 (g) When the parent or parents have subjected the
14 child to aggravated child abuse as defined in s. 827.03,
15 sexual battery or sexual abuse as defined in s. 39.01, or
16 chronic abuse.

17 (h) When the parent or parents have committed murder
18 or voluntary manslaughter of another child of the parent, or a
19 felony assault that results in serious bodily injury to the
20 child or another child of the parent, or aided or abetted,
21 attempted, conspired, or solicited to commit such a murder or
22 voluntary manslaughter or felony assault.

23 (i) When the parental rights of the parent to a
24 sibling have been terminated involuntarily.

25 (2) Reasonable efforts to preserve and reunify
26 families shall not be required if a court of competent
27 jurisdiction has determined that any of the events described
28 in paragraphs (1)(e)-(i) have occurred.

29 (3)(2) When a petition for termination of parental
30 rights is filed under subsection (1), a separate petition for
31 dependency need not be filed and the department need not offer

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1 the parents a case plan with a goal of reunification, but may
2 instead file with the court a case plan with a goal of
3 termination of parental rights to allow continuation of
4 services until the termination is granted or until further
5 orders of the court are issued.

6 (4) When an expedited termination of parental rights
7 petition is filed, reasonable efforts shall be made to place
8 the child in a timely manner in accordance with the permanency
9 plan, and to complete whatever steps are necessary to finalize
10 the permanent placement of the child.

11 Section 72. Section 39.465, Florida Statutes, is
12 renumbered as section 39.807, Florida Statutes, and amended to
13 read:

14 39.807 ~~39.465~~ Right to counsel; guardian ad litem.--

15 (1)(a) At each stage of the proceeding under this
16 part, the court shall advise the parent, ~~guardian, or~~
17 ~~custodian~~ of the right to have counsel present. The court
18 shall appoint counsel for indigent ~~insolvent~~ persons. The
19 court shall ascertain whether the right to counsel is
20 understood and, where appropriate, is knowingly and
21 intelligently waived. The court shall enter its findings in
22 writing with respect to the appointment or waiver of counsel
23 for indigent ~~insolvent~~ parties.

24 (b) Once counsel has been retained or, in appropriate
25 circumstances, appointed to represent the parent of the child,
26 the attorney shall continue to represent the parent throughout
27 the proceedings or until the court has approved discontinuing
28 the attorney-client relationship. If the attorney-client
29 relationship is discontinued, the court shall advise the
30 parent of the right to have new counsel retained or appointed
31 for the remainder of the proceedings.

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1 ~~(c)(b)~~1. No waiver of counsel may be accepted if it
2 appears that the parent, ~~guardian, or custodian~~ is unable to
3 make an intelligent and understanding choice because of mental
4 condition, age, education, experience, the nature or
5 complexity of the case, or other factors.

6 2. A waiver of counsel made in court must be of
7 record. A waiver made out of court must be in writing with not
8 less than two attesting witnesses and must be filed with the
9 court. The witnesses shall attest to the voluntary execution
10 of the waiver.

11 3. If a waiver of counsel is accepted at any stage of
12 the proceedings, the offer of assistance of counsel must be
13 renewed by the court at each subsequent stage of the
14 proceedings at which the parent, ~~guardian, or custodian~~
15 appears without counsel.

16 ~~(d)(e)~~ This subsection does not apply to any parent
17 who has voluntarily executed a written surrender of the child
18 and consent to the entry of a court order therefor and who
19 does not deny the allegations of the petition.

20 (2)(a) The court shall appoint a guardian ad litem to
21 represent the child in any termination of parental rights
22 proceedings and shall ascertain at each stage of the
23 proceedings whether a guardian ad litem has been appointed.

24 (b) The guardian ad litem has the following
25 responsibilities:

26 1. To investigate the allegations of the petition and
27 any subsequent matters arising in the case and, unless excused
28 by the court, to file a written report. This report must
29 include a statement of the wishes of the child and the
30 recommendations of the guardian ad litem and must be provided
31 to all parties and the court at least 48 hours before the

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1 disposition hearing.

2 2. To be present at all court hearings unless excused
3 by the court.

4 3. To represent the interests of the child until the
5 jurisdiction of the court over the child terminates or until
6 excused by the court.

7 ~~4. To perform such other duties and undertake such~~
8 ~~other responsibilities as the court may direct.~~

9 (c) A guardian ad litem is not required to post bond
10 but shall file an acceptance of the office.

11 (d) A guardian ad litem is entitled to receive service
12 of pleadings and papers as provided by the Florida Rules of
13 Juvenile Procedure.

14 (e) This subsection does not apply to any voluntary
15 relinquishment of parental rights proceeding.

16 Section 73. Section 39.466, Florida Statutes, is
17 renumbered as section 39.808, Florida Statutes, and amended to
18 read:

19 39.808 ~~39.466~~ Advisory hearing; pretrial status
20 conference.--

21 (1) An advisory hearing on the petition to terminate
22 parental rights must be held as soon as possible after all
23 parties have been served with a copy of the petition and a
24 notice of the date, time, and place of the advisory hearing
25 for the petition.

26 (2) At the hearing the court shall inform the parties
27 of their rights under s. 39.807 ~~39.465~~, shall appoint counsel
28 for the parties in accordance with legal requirements, and
29 shall appoint a guardian ad litem to represent the interests
30 of the child if one has not already been appointed.

31 (3) The court shall set a date for an adjudicatory

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1 hearing to be held within 45 days after the advisory hearing,
2 unless all of the necessary parties agree to some other
3 hearing date.

4 (4) An advisory hearing may not be held if a petition
5 is filed seeking an adjudication voluntarily to terminate
6 parental rights. Adjudicatory hearings for petitions for
7 voluntary termination must be held within 21 days after the
8 filing of the petition. Notice of the use of this subsection
9 must be filed with the court at the same time as the filing of
10 the petition to terminate parental rights.

11 (5) Not less than 10 days before the adjudicatory
12 hearing, the court shall conduct a prehearing status
13 conference to determine the order in which each party may
14 present witnesses or evidence, the order in which
15 cross-examination and argument shall occur, and any other
16 matters that may aid in the conduct of the adjudicatory
17 hearing, to prevent any undue delay in the conduct of the
18 adjudicatory hearing.

19 Section 74. Section 39.467, Florida Statutes, is
20 renumbered as section 39.809, Florida Statutes, and amended to
21 read:

22 39.809 ~~39.467~~ Adjudicatory hearing.--

23 (1) In a hearing on a petition for termination of
24 parental rights, the court shall consider the elements
25 required for termination ~~as set forth in s. 39.4611~~. Each of
26 these elements must be established by clear and convincing
27 evidence before the petition is granted.

28 (2) The adjudicatory hearing must be held within 45
29 days after the advisory hearing, but reasonable continuances
30 for the purpose of investigation, discovery, or procuring
31 counsel or witnesses may, when necessary, be granted.

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1 (3) The adjudicatory hearing must be conducted by the
2 judge without a jury, applying the rules of evidence in use in
3 civil cases and adjourning the case from time to time as
4 necessary. For purposes of the adjudicatory hearing, to avoid
5 unnecessary duplication of expense, the judge may consider
6 in-court testimony previously given at any properly noticed
7 hearing, without regard to the availability or unavailability
8 of the witness at the time of the actual adjudicatory hearing,
9 if the recorded testimony itself is made available to the
10 judge. Consideration of such testimony does not preclude the
11 witness being subpoenaed to answer supplemental questions.

12 (4) All hearings involving termination of parental
13 rights are confidential and closed to the public. Hearings
14 involving more than one child may be held simultaneously when
15 the children involved are related to each other or were
16 involved in the same case. The child and the parents ~~or legal~~
17 ~~custodians~~ may be examined separately and apart from each
18 other.

19 (5) The judge shall enter a written order with the
20 findings of fact and conclusions of law.

21 Section 75. Section 39.4612, Florida Statutes, is
22 renumbered as section 39.810, Florida Statutes, is amended to
23 read:

24 39.810 ~~39.4612~~ Manifest best interests of the child.
25 In a hearing on a petition for termination of parental rights,
26 the court shall consider the manifest best interests of the
27 child. This consideration shall not include a comparison
28 between the attributes of the parents and those of any persons
29 providing a present or potential placement for the child. For
30 the purpose of determining the manifest best interests of the
31 child, the court shall consider and evaluate all relevant

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1 factors, including, but not limited to:

2 (1) Any suitable permanent custody arrangement with a
3 relative of the child.

4 (2) The ability and disposition of the parent or
5 parents to provide the child with food, clothing, medical care
6 or other remedial care recognized and permitted under state
7 law instead of medical care, and other material needs of the
8 child.

9 (3) The capacity of the parent or parents to care for
10 the child to the extent that the child's safety, well-being,
11 and physical, mental, and emotional health ~~and well-being~~ will
12 not be endangered upon the child's return home.

13 (4) The present mental and physical health needs of
14 the child and such future needs of the child to the extent
15 that such future needs can be ascertained based on the present
16 condition of the child.

17 (5) The love, affection, and other emotional ties
18 existing between the child and the child's parent or parents,
19 siblings, and other relatives, and the degree of harm to the
20 child that would arise from the termination of parental rights
21 and duties.

22 (6) The likelihood of an older child remaining in
23 long-term foster care upon termination of parental rights, due
24 to emotional or behavioral problems or any special needs of
25 the child.

26 (7) The child's ability to form a significant
27 relationship with a parental substitute and the likelihood
28 that the child will enter into a more stable and permanent
29 family relationship as a result of permanent termination of
30 parental rights and duties.

31 (8) The length of time that the child has lived in a

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1 stable, satisfactory environment and the desirability of
2 maintaining continuity.

3 (9) The depth of the relationship existing between the
4 child and the present custodian.

5 (10) The reasonable preferences and wishes of the
6 child, if the court deems the child to be of sufficient
7 intelligence, understanding, and experience to express a
8 preference.

9 (11) The recommendations for the child provided by the
10 child's guardian ad litem or legal representative.

11 Section 76. Section 39.469, Florida Statutes, is
12 renumbered as section 39.811, Florida Statutes, and amended to
13 read:

14 39.811 ~~39.469~~ Powers of disposition; order of
15 disposition.--

16 (1) If the court finds that the grounds for
17 termination of parental rights have not been established by
18 clear and convincing evidence, the court shall:

19 (a) If grounds for dependency have been established,
20 adjudicate or readjudicate the child dependent and:

21 1. Enter an order placing or continuing the child in
22 out-of-home ~~foster~~ care under a case plan; or

23 2. Enter an order returning the child to the parent or
24 parents. The court shall retain jurisdiction over a child
25 returned to the parent or parents ~~or legal guardians~~ for a
26 period of 6 months, but, at that time, based on a report of
27 the social service agency and any other relevant factors, the
28 court shall make a determination as to whether its
29 jurisdiction shall continue or be terminated.

30 (b) If grounds for dependency have not been
31 established, dismiss the petition.

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1 (2) If the child is in out-of-home ~~foster~~ care custody
2 of the department and the court finds that the grounds for
3 termination of parental rights have been established by clear
4 and convincing evidence, the court shall, by order, place the
5 child in the custody of the department for the purpose of
6 adoption ~~or place the child in the custody of a licensed~~
7 ~~child-placing agency for the purpose of adoption.~~

8 (3) If the child is in the custody of one parent and
9 the court finds that the grounds for termination of parental
10 rights have been established for the remaining parent by clear
11 and convincing evidence, the court shall enter an order
12 terminating the rights of the parent for whom the grounds have
13 been established and placing the child in the custody of the
14 remaining parent, granting that parent sole parental
15 responsibility for the child.

16 (4) If the child is neither in the custody of the
17 department ~~of Children and Family Services~~ nor in the custody
18 of a parent and the court finds that the grounds for
19 termination of parental rights have been established for
20 either or both parents, the court shall enter an order
21 terminating parental rights for the parent or parents for whom
22 the grounds for termination have been established and placing
23 the child with an appropriate custodian. If the parental
24 rights of both parents have been terminated, or if the
25 parental rights of only one parent have been terminated and
26 the court makes specific findings based on evidence presented
27 that placement with the remaining parent is likely to be
28 harmful to the child, the court may order that the child be
29 placed with a custodian other than the department after
30 hearing evidence of the suitability of such intended
31 placement. Suitability of the intended placement includes the

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1 fitness and capabilities of the proposed intended placement,
2 ~~with primary consideration being given to the welfare of the~~
3 ~~child; the fitness and capabilities of the proposed~~ custodian
4 to function as the primary caregiver ~~caretaker~~ for a
5 particular child; and the compatibility of the child with the
6 home in which the child is intended to be placed. If the
7 court orders that a child be placed with a custodian under
8 this subsection, the court shall appoint such custodian as the
9 guardian for the child as provided in s. 744.3021. The court
10 may modify the order placing the child in the custody of the
11 custodian and revoke the guardianship established under s.
12 744.3021 if the court subsequently finds that a party to the
13 proceeding other than a parent whose rights have been
14 terminated has shown a material change in circumstances which
15 causes the placement to be no longer in the best interest of
16 the child.

17 (5) If the court terminates parental rights, the court
18 shall enter a written order of disposition briefly stating the
19 facts upon which its decision to terminate the parental rights
20 is made. An order of termination of parental rights, whether
21 based on parental consent or after notice served as prescribed
22 in this part, permanently deprives the parents ~~or legal~~
23 ~~guardian~~ of any right to the child.

24 (6) The parental rights of one parent may be severed
25 without severing the parental rights of the other parent only
26 under the following circumstances:

27 (a) If the child has only one surviving parent;

28 (b) If the identity of a prospective parent has been
29 established as unknown after sworn testimony;

30 (c) If the parent whose rights are being terminated
31 became a parent through a single-parent adoption;

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1 (d) If the protection of the child demands termination
2 of the rights of a single parent; or

3 (e) If the parent whose rights are being terminated
4 meets the criteria specified in s. 39.806(1)(d)~~39.464(1)(d)~~.

5 (7)(a) The termination of parental rights does not
6 affect the rights of grandparents unless the court finds that
7 continued visitation is not in the best interests of the child
8 or that such visitation would interfere with the goals of
9 permanency planning for the child.

10 (b) If the court terminates parental rights, it may
11 order that the parents or relatives of the parent whose rights
12 are terminated be allowed to maintain some contact with the
13 child pending adoption if the best interests of the child
14 support this continued contact, except as provided in
15 paragraph (a). If the court orders such continued contact, the
16 nature and frequency of the contact must be set forth in
17 written order and may be reviewed upon motion of any party,
18 including a prospective adoptive parent if a child has been
19 placed for adoption. If a child is placed for adoption, the
20 nature and frequency of the contact must be reviewed by the
21 court at the time the child is adopted.

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. Reasonable efforts must be made to place the child in a
28 timely manner in accordance with the permanency plan, and to
29 complete whatever steps are necessary to finalize the
30 permanent placement of the child. Thereafter, until the
31 adoption of the child is finalized or the child reaches the

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1 age of 18 years, whichever occurs first, the court shall hold
 2 hearings at 6-month intervals to review the progress being
 3 made toward permanency for the child.

4 (9) After termination of parental rights, the court
 5 shall retain jurisdiction over any child for whom custody is
 6 given to a social service agency until the child is adopted.
 7 The court shall review the status of the child's placement and
 8 the progress being made toward permanent adoptive placement.
 9 As part of this continuing jurisdiction, for good cause shown
 10 by the guardian ad litem for the child, the court may review
 11 the appropriateness of the adoptive placement of the child.

12 Section 77. Section 39.47, Florida Statutes, is
 13 renumbered as section 39.812, Florida Statutes, and amended to
 14 read:

15 39.812 39.47 Postdisposition Post disposition
 16 relief.--

17 (1) ~~A licensed child-placing agency or~~ The department
 18 ~~that which~~ is given custody of a child for subsequent adoption
 19 in accordance with this chapter may place the child in a
 20 family home for prospective subsequent adoption and the
 21 licensed child-placing agency or the department may thereafter
 22 become a party to any proceeding for the legal adoption of the
 23 child and appear in any court where the adoption proceeding is
 24 pending and consent to the adoption; and that consent alone
 25 shall in all cases be sufficient.

26 (2) In any subsequent adoption proceeding, the parents
 27 are and legal guardian shall not be entitled to any notice of
 28 the proceeding and are not thereof, nor shall they be entitled
 29 to knowledge at any time after the order terminating parental
 30 rights is entered of the whereabouts of the child or of the
 31 identity or location of any person having the custody of or

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1 having adopted the child, except as provided by order of the
2 court pursuant to this chapter or chapter 63; and in any
3 habeas corpus or other proceeding involving the child brought
4 by any parent ~~or legal guardian~~ of the child, an ~~no~~ agent or
5 contract provider of the ~~licensed child-placing agency or~~
6 department may not ~~shall~~ be compelled to divulge that
7 information, but may be compelled to produce the child before
8 a court of competent jurisdiction if the child is still
9 subject to the guardianship of the ~~licensed child-placing~~
10 ~~agency or~~ department.

11 (3) The entry of the custody order to the department
12 does ~~or licensed child-placing agency shall~~ not entitle the
13 ~~licensed child-placing agency or~~ department to guardianship of
14 the estate or property of the child, but the ~~licensed~~
15 ~~child-placing agency or~~ department shall be the guardian of
16 the person of the child.

17 (4) The court shall retain jurisdiction over any child
18 for whom custody is given to ~~a licensed child-placing agency~~
19 ~~or to~~ the department until the child is adopted. After custody
20 of a child for subsequent adoption has been given to ~~an agency~~
21 ~~or~~ the department, the court has jurisdiction for the purpose
22 of reviewing the status of the child and the progress being
23 made toward permanent adoptive placement. As part of this
24 continuing jurisdiction, for good cause shown by the guardian
25 ad litem for the child, the court may review the
26 appropriateness of the adoptive placement of the child. The
27 petition for adoption must be filed in the division of the
28 circuit court which issued the judgment terminating parental
29 rights. A copy of the consent required under s. 63.062(4) and
30 executed by the department must be attached to the petition
31 for adoption. The petition for adoption must be accompanied by

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1 a form created by the department which details the social and
2 medical history of each birth parent and includes the social
3 security number and date of birth for each birth parent, if
4 such information is available or readily obtainable. The
5 person seeking to adopt the minor may not file a petition for
6 adoption until the order terminating parental rights becomes
7 final. An adoption proceeding under this subsection is
8 governed by chapter 63, as limited under s. 63.037.

9 ~~(5) The Legislature finds that children are most~~
10 ~~likely to realize their potential when they have the ability~~
11 ~~provided by good permanent families rather than spending long~~
12 ~~periods of time in temporary placements or unnecessary~~
13 ~~institutions. It is the intent of the Legislature that~~
14 ~~decisions be consistent with the child's best interests and~~
15 ~~that the department make proper adoptive placements as~~
16 ~~expeditiously as possible following a final judgment~~
17 ~~terminating parental rights.~~

18 Section 78. Section 63.022, Florida Statutes, is
19 amended to read:

20 63.022 Legislative intent.--

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

26 (2) The basic safeguards intended to be provided by
27 this chapter act are that:

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

29 (b) The required persons consent to the adoption or
30 the parent-child relationship is terminated by judgment of the
31 court.

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1 (c) The required social studies are completed and the
2 court considers the reports of these studies prior to judgment
3 on adoption petitions.

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

6 (e) A sufficient period of time elapses during which
7 the minor ~~child~~ has lived within the proposed adoptive home
8 under the guidance of the department or a licensed
9 child-placing agency.

10 (f) All expenditures by adoption entities
11 ~~intermediaries~~ placing, and persons independently adopting, a
12 minor are reported to the court and become a permanent record
13 in the file of the adoption proceedings.

14 (g) Social and medical information concerning the
15 minor child and the birth parents is furnished by the birth
16 parent when available and filed with the court before a final
17 hearing on a petition to terminate parental rights pending
18 ~~adoption consent to the adoption when a minor is placed by an~~
19 ~~intermediary.~~

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

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

25 (j) The records of all proceedings concerning custody
26 and adoption of minor children are confidential and exempt
27 from ~~the provisions of~~ s. 119.07(1), except as provided in s.
28 63.162.

29 (k) The birth parent, the adoptive parent, and the
30 minor child receive the same or similar safeguards, guidance,
31 counseling, and supervision in an intermediary adoption as

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1 they receive in an agency or department adoption.

2 (1) In all matters coming before the court pursuant to
3 this chapter act, the court shall enter such orders as it
4 deems necessary and suitable to promote and protect the best
5 interests of the person to be adopted.

6 Section 79. Section 63.032, Florida Statutes, is
7 amended to read:

8 63.032 Definitions.--As used in this chapter act,
9 ~~unless the context otherwise requires,~~ the term:

10 (1) "Department" means the Department of Children and
11 Family Services.

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

14 (3) "Court" means any circuit court of this state and,
15 when the context requires, the court of any state that is
16 empowered to grant petitions for adoption.

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

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

19 (6) "Person" includes a natural person, corporation,
20 government or governmental subdivision or agency, business
21 trust, estate, trust, partnership, or association, and any
22 other legal entity.

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

26 (8) "Intermediary" means an attorney ~~or physician~~ who
27 is licensed or authorized to practice in this state and who
28 has reported the intended placement of a minor for adoption
29 under s. 63.092 or, for the purpose of adoptive placements of
30 children from out of state with citizens of this state, a
31 child-placing agency licensed in another state that is

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1 qualified by the department.

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

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

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

20 (12) "Primary residence and place of employment in
21 Florida" means a person lives and works in this state at least
22 6 months of the year and intends to do so for the foreseeable
23 future or military personnel who designate Florida as their
24 place of residence in accordance with the Soldiers' and
25 Sailors' Civil Relief Act of 1940 or employees of the United
26 States Department of State living in a foreign country who
27 designate Florida as their place of residence.

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

31 (14) "Abandoned" means a situation in which the parent

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1 or legal custodian of a child, while being able, makes no
2 provision for the child's support and makes no effort to
3 communicate with the child, which situation is sufficient to
4 evince a willful rejection of parental obligations. If, in the
5 opinion of the court, the efforts of such parent or legal
6 custodian to support and communicate with the child are only
7 marginal efforts that do not evince a settled purpose to
8 assume all parental duties, the court may declare the child to
9 be abandoned. In making this decision, the court may consider
10 the conduct of a father towards the child's mother during her
11 pregnancy.

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

16 Section 80. Section 63.037, Florida Statutes, is
17 created to read:

18 63.037 Proceedings applicable to cases resulting from
19 a termination of parental rights under chapter 39.--A case in
20 which a minor becomes available for adoption after the
21 parental rights of each parent have been terminated by a court
22 order issued pursuant to chapter 39 will be governed by s.
23 39.47 and this chapter. Adoption proceedings filed under
24 chapter 39 are exempt from the following provisions of this
25 chapter: disclosure requirements for the adoption entity
26 provided in s. 63.085; general provisions governing
27 termination of parental rights pending adoption provided in s.
28 63.087; notice and service provisions governing termination of
29 parental rights pending adoption provided in s. 63.088; and
30 procedures for terminating parental rights pending adoption
31 provided in s. 63.089.

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1 Section 81. Section 63.038, Florida Statutes, is
2 created to read:

3 63.038 Prohibited acts.--A person who knowingly and
4 willfully provides false information under this chapter or
5 who, with the intent to defraud, accepts benefits related to
6 the same pregnancy from more than one agency or intermediary
7 without disclosing that fact to each entity commits a
8 misdemeanor of the second degree, punishable as provided in s.
9 775.082 or s. 775.083. In addition to any other penalty or
10 liability allowed by law, a person who knowingly and willfully
11 provides false information under this chapter or who, with
12 intent to defraud, accepts benefits related to the same
13 pregnancy from more than one agency or intermediary without
14 disclosing that fact to each entity and to any prospective
15 adoptive parent providing sums for the payment of the benefits
16 is liable for sums paid by anyone who paid sums permitted
17 under this chapter in anticipation of or in connection with an
18 adoption. A person seeking to collect moneys under this
19 section may do so by filing a civil action or may be awarded
20 restitution in a criminal prosecution.

21 Section 82. Section 63.039, Florida Statutes, is
22 created to read:

23 63.039 Duty of adoption entity to prospective adoptive
24 parents; sanctions.--

25 (1) An adoption entity placing a minor for adoption
26 has an affirmative duty to follow the requirements of this
27 chapter, specifically the following provisions, which protect
28 and promote the well-being of persons being adopted and their
29 birth and adoptive parents by promoting certainty, finality,
30 and permanency for such persons:

31 (a) Provide written initial disclosure to the adoptive

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1 parent at the time and in the manner required under s.

2 63.085(1);

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

7 (c) Provide written initial and postbirth disclosure
8 to the birth parent at the time and in the manner required
9 under s. 63.085;

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

14 (e) When a written consent for adoption is obtained,
15 obtain the consent at the time and in the manner required
16 under s. 63.082;

17 (f) When a written consent or affidavit of
18 nonpaternity for adoption is obtained, obtain a consent or
19 affidavit of nonpaternity that contains the language required
20 under s. 63.062 or s. 63.082;

21 (g) Include in the petition to terminate parental
22 rights pending adoption all information required under s.
23 63.087(6)(e);

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

26 (i) When the identity of a person whose consent to
27 adoption is necessary under this chapter is known but the
28 location of such a person is unknown, conduct the
29 due-diligence search and file the affidavit required under s.
30 63.088(4);

31 (j) Serve the petition and notice of hearing to

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1 terminate parental rights pending adoption at the time and in
2 the manner required by s. 63.088; and

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

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

10 (3) If a court finds that a consent taken under this
11 chapter was obtained by fraud or duress attributable to the
12 adoption entity, the court must award all sums paid by the
13 prospective adoptive parents or on their behalf in
14 anticipation of or in connection with the adoption. The court
15 may also award reasonable attorney's fees and costs incurred
16 by the prospective adoptive parents in connection with the
17 adoption and any litigation related to placement or adoption
18 of a minor. An award under this subsection must be paid
19 directly to the prospective adoptive parents by the adoption
20 entity.

21 (4) If a person whose consent to an adoption is
22 necessary under s. 63.062 prevails in an action to set aside a
23 consent to adoption, a judgment terminating parental rights
24 pending adoption, or a judgment of adoption, the court must
25 award a reasonable attorney's fee to the prevailing party. An
26 award under this subsection is to be paid by the adoption
27 entity if the court finds that the acts or omissions of the
28 entity were the basis for the court's order granting relief to
29 the prevailing party.

30 (5) The court must provide to The Florida Bar any
31 order that imposes sanctions under this section against an

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1 attorney, whether acting as an adoption agency or as an
2 intermediary. The court must provide to the Department of
3 Children and Family Services any order that imposes sanctions
4 under this section against an agency. The order must be
5 provided within 30 days after the date that the order was
6 issued.

7 Section 83. Section 63.052, Florida Statutes, is
8 amended to read:

9 63.052 Guardians designated; proof of commitment.--

10 (1) For minors who have been placed for adoption with
11 and permanently committed to an agency, the agency shall be
12 the guardian of the person of the minor child; for those who
13 have been placed for adoption with and permanently committed
14 to the department, the department shall be the guardian of the
15 person of the minor child.

16 (2) For minors who have been voluntarily surrendered
17 to an intermediary through an execution of consent to
18 adoption, the intermediary shall be responsible for the child
19 until the time a court orders preliminary approval of
20 placement of the child in the prospective adoptive home, at
21 which time the prospective adoptive parents become guardians
22 pending finalization of adoption. Until a court has terminated
23 parental rights pending adoption and has ordered preliminary
24 approval of placement of the minor in the adoptive home, the
25 minor must be placed in the care of a birth relative, placed
26 in foster care, or placed in the care of a prospective
27 adoptive home that has received a favorable home study by a
28 licensed child placing agency, a licensed professional, or an
29 agency described in s. 61.20(2) within 1 year before such
30 placement of the minor with the prospective adoptive parents.
31 The fact that a minor is temporarily placed with the

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1 prospective adoptive parents does not give rise to a
2 presumption that the parental rights of the birth parents will
3 subsequently be terminated.

4 ~~(2)~~ For minors who have been placed for adoption with
5 or voluntarily surrendered to an agency, but have not been
6 permanently committed to the agency, the agency shall have the
7 responsibility and authority to provide for the needs and
8 welfare for such minors. For those minors placed for adoption
9 with or voluntarily surrendered to the department, but not
10 permanently committed to the department, the department shall
11 have the responsibility and authority to provide for the needs
12 and welfare for such minors. The adoption entity may
13 ~~department, an intermediary, or a licensed child-placing~~
14 ~~agency has the authority to~~ authorize all appropriate medical
15 care for a minor ~~the children~~ who has ~~have~~ been placed for
16 adoption with or voluntarily surrendered to them. The
17 provisions of s. 627.6578 shall remain in effect
18 notwithstanding the guardianship provisions in this section.

19 (3) If a minor is surrendered to an intermediary for
20 subsequent adoption and a suitable prospective adoptive home
21 is not available under s. 63.092 at the time the minor is
22 surrendered to the intermediary or, if the minor is a newborn
23 admitted to a licensed hospital or birth center, at the time
24 the minor is discharged from the hospital or birth center the
25 minor must be placed in licensed foster care, ~~the intermediary~~
26 ~~shall be responsible for the child~~ until a suitable
27 prospective adoptive home is available under s. 63.092.

28 (4) If a minor ~~child~~ is voluntarily surrendered to an
29 intermediary for subsequent adoption and the adoption does not
30 become final within 180 days, the intermediary must report to
31 the court on the status of the minor ~~child~~ and the court may

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1 at that time proceed under s. 39.453 or take action reasonably
2 necessary to protect the best interest of the minor ~~child~~.

3 (5) The recital in the written consent given by the
4 department that the minor ~~child~~ sought to be adopted has been
5 permanently committed to the department shall be prima facie
6 proof of such commitment. The recital in the written consent
7 given by a licensed child-placing agency or the declaration in
8 an answer or recommendation filed by a licensed child-placing
9 agency that the minor ~~child~~ has been permanently committed and
10 the child-placing agency is duly licensed by the department
11 shall be prima facie proof of such commitment and of such
12 license.

13 (6) Unless otherwise authorized by law, the department
14 is not responsible for expenses incurred by licensed
15 child-placing agencies or intermediaries participating in
16 placement of a minor ~~child~~ for the purposes of adoption.

17 (7) The court retains jurisdiction over a minor who
18 has been placed for adoption until the adoption is final.
19 After a minor is placed with an adoption entity or prospective
20 adoptive parent, the court has jurisdiction for the purpose of
21 reviewing the status of the minor and the progress being made
22 toward permanent adoptive placement. As part of this
23 continuing jurisdiction, for good cause shown by a person
24 whose consent to an adoption is required under s. 63.062, by a
25 party to any proceeding involving the minor, or upon the
26 court's own motion, the court may review the appropriateness
27 of the adoptive placement of the minor.

28 Section 84. Section 63.062, Florida Statutes, is
29 amended to read:

30 63.062 Persons required to consent to adoption.--

31 (1) Unless supported by one or more of the grounds

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1 enumerated under s. 63.089(3) consent is excused by the court,
2 a petition to terminate parental rights pending adoption adopt
3 a minor may be granted only if written consent has been
4 executed as provided in s. 63.082 after the birth of the minor
5 or notice has been served under s. 63.088 to by:

- 6 (a) The mother of the minor.
7 (b) The father of the minor, if:
8 1. The minor was conceived or born while the father
9 was married to the mother;
10 2. The minor is his child by adoption;
11 3. The minor has been established by court proceeding
12 to be his child.

13 (c) If there is no father as set forth in subsection
14 (b), any man for whom the minor has been established to be his
15 child by scientific tests that are generally acceptable within
16 the scientific community to show a probability of paternity.

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

19 1.4. He Has acknowledged in writing, signed in the
20 presence of a competent witness, that he is the father of the
21 minor and has filed such acknowledgment with the Office of
22 Vital Statistics of the Department of Health;

23 2.5. He Has provided the child or the mother during
24 her pregnancy with support in a repetitive, customary manner;

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

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

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1 5. I have no interest in assuming the
2 responsibilities of parenthood for this child.
3 I will not acknowledge in writing to be the
4 father of this child nor institute court
5 proceedings to establish the child to be mine.
6 6. I do not object to any decision or
7 arrangements ... makes regarding this child,
8 including adoption.

9
10 I WAIVE NOTICE OF ANY AND ALL PROCEEDINGS TO
11 TERMINATE PARENTAL RIGHTS OR FINALIZE AN
12 ADOPTION UNDER THIS CHAPTER.

13
14 ~~(3)(2)~~ The court may require that consent be executed
15 by:

16 (a) Any person lawfully entitled to custody of the
17 minor; or

18 (b) The court having jurisdiction to determine custody
19 of the minor, if the person having physical custody of the
20 minor has no authority to consent to the adoption.

21 ~~(4)(3)~~ The petitioner must make good faith and
22 diligent efforts as provided under s. 63.088 to notify, and
23 obtain written consent from, the persons required to consent
24 to adoption under s. 63.062 ~~within 60 days after filing the~~
25 ~~petition. These efforts may include conducting interviews and~~
26 ~~record searches to locate those persons, including verifying~~
27 ~~information related to location of residence, employment,~~
28 ~~service in the Armed Forces, vehicle registration in this~~
29 ~~state, and corrections records.~~

30 ~~(5)(4)~~ If parental rights to the minor have previously
31 been terminated, a licensed child-placing agency or the

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1 department with which the minor child has been placed for
2 subsequent adoption may provide consent to the adoption. In
3 such case, no other consent is required.

4 ~~(6)~~(5) A petition to adopt an adult may be granted if:

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

7 (b) Written consent to adoption has been executed by
8 the birth parents, if any, or proof of service of process has
9 been filed, showing notice has been served on the parents as
10 provided in this chapter section.

11 Section 85. Section 63.082, Florida Statutes, is
12 amended to read:

13 63.082 Execution of consent or affidavit of
14 nonpaternity; family medical history; withdrawal of consent.--

15 (1) Consent or an affidavit of nonpaternity shall be
16 executed as follows:

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

20 (b) If by an agency, by affidavit from its authorized
21 representative.

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

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

26 (2) A consent that does not name or otherwise identify
27 the adopting parent is valid if the consent contains a
28 statement by the person consenting that the consent was
29 voluntarily executed and that identification of the adopting
30 parent is not required for granting the consent.

31 (3)(a) The department must provide a consent form and

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1 a family social and medical history form to an adoption entity
2 that intermediary who intends to place a child for adoption.
3 The forms completed by the birth parents must be attached to
4 the petition to terminate parental rights pending adoption and
5 must contain such biological and sociological information, or
6 such information as to the family medical history, regarding
7 the minor child and the birth parents as is required by the
8 department. The information must be incorporated into the
9 final home investigation report specified in s. 63.125. The
10 ~~court may also require that the birth mother and birth father~~
11 must be interviewed by a representative of the department, a
12 licensed child-placing agency, or a professional pursuant to
13 s. 63.092 before the consent is executed, unless the birth
14 parent is found to be an unlocated parent or an unidentified
15 parent. A summary of each interview, or a statement that the
16 parent is unlocated or unidentified, must be filed with the
17 petition to terminate parental rights pending adoption and
18 included in the final home study filed under s. 63.125.

19 (b) Consent executed by ~~the department, by a licensed~~
20 ~~child-placing agency, or by~~ an appropriate order or
21 certificate of the court under s. 63.062(3)(b) must be
22 attached to the petition to terminate parental rights pending
23 adoption and must be accompanied by a family medical history
24 ~~that includes such information concerning the medical history~~
25 ~~of the child and the birth parents as is available or readily~~
26 ~~obtainable.~~

27 (c) If any executed consent or social and medical
28 history is unavailable because the person whose consent is
29 required is unlocated or unidentified, the petition must be
30 accompanied by the affidavit of due diligence required under
31 s. 63.088.

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

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

- 8 1. 48 hours from the time of the minor's birth; or
9 2. The day the birth mother is determined in writing,
10 either on a patient chart or in release paperwork to be fit
11 for release from a licensed hospital or birth center;
12 whichever is sooner.

13
14 A consent executed under this paragraph is valid upon
15 execution and thereafter may only be withdrawn when the court
16 finds that it was obtained by fraud or under duress.

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

23 (d) The consent or affidavit of nonpaternity must be
24 signed child, in the presence of two witnesses, and be
25 acknowledged before a notary public who is not signing as one
26 of the witnesses. The notary public must legibly note on the
27 consent or affidavit of nonpaternity the date and time the
28 consent or affidavit of nonpaternity was executed. The
29 witnesses' names must be typed or printed underneath their
30 signatures. The witnesses', and their home or business
31 addresses and social security numbers, driver's license

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1 numbers, or state identification card numbers must be
2 included. The absence of a social security number, driver's
3 license number, or state identification card number shall not
4 be deemed to invalidate the consent. The person who signs the
5 consent or affidavit has the right to have at least one of the
6 witnesses be an individual who does not have a partnership,
7 employment, agency, or other professional or personal
8 relationship with the adoption entity or the prospective
9 adoptive parents. The person who signs the consent or
10 affidavit of nonpaternity must be given reasonable notice of
11 the right to select a witness of his or her own choosing. The
12 person who signs the consent or affidavit of nonpaternity must
13 acknowledge in writing on the consent or affidavit that such
14 notice was given and indicate the witness, if any, who was
15 selected by the person signing the consent or affidavit. A
16 consent to adoption must contain, in at least 16-point
17 boldfaced type, an acknowledgement of the birth parent's
18 rights in substantially the following form:

19
20 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
21 HAVE THE RIGHT TO DO ANY OF THE FOLLOWING
22 INSTEAD OF SIGNING THIS CONSENT OR BEFORE
23 SIGNING THIS CONSENT:

- 24
25 (A) CONSULT WITH AN ATTORNEY;
26 (B) HOLD, CARE FOR, AND FEED THE CHILD;
27 (C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY
28 FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
29 WILLING TO CARE FOR YOUR CHILD;
30 (D) TAKE THE CHILD HOME; AND
31 (E) FIND OUT ABOUT THE COMMUNITY RESOURCES

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1 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
2 THROUGH WITH THE ADOPTION.
3
4 IF YOU DO SIGN THIS CONSENT, YOU ARE
5 RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR
6 CONSENT IS VALID AND BINDING UNLESS WITHDRAWN
7 AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR
8 RIGHTS TO A CHILD WHO IS TO BE PLACED FOR
9 ADOPTION UNDER S. 63.052, F.S., UPON THE
10 MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED
11 HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL
12 BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR
13 ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS
14 FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH
15 MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON
16 HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT
17 TO BE RELEASED FROM A LICENSED HOSPITAL OR
18 BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE
19 YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU
20 HAVE SIGNED THE CONSENT, IT IS VALID AND
21 BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT
22 FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR
23 UNDER DURESS. IF YOU ARE RELINQUISHING YOUR
24 RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S.
25 63.052, F.S., UPON THE MINOR'S RELEASE
26 FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR
27 BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT
28 ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE
29 SUCH CONSENT IS VALID UPON EXECUTION, IT IS
30 SUBJECT TO A 3-DAY REVOCATION PERIOD.
31

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1 WHEN THE REVOCATION PERIOD APPLIES, YOU MAY
2 WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO
3 SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
4 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
5 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
6 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
7 LATER.

8
9 YOU MAY DO THIS BY NOTIFYING THE ADOPTION
10 ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR
11 CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER
12 AT A UNITED STATES POST OFFICE AND ASKING THAT
13 THE LETTER BE SENT BY CERTIFIED UNITED STATES
14 MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3
15 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE
16 CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE
17 BIRTH MOTHER'S DISCHARGE FROM A LICENSED
18 HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.
19 AS USED IN THIS SECTION, THE TERM "BUSINESS
20 DAY" MEANS A DAY ON WHICH THE UNITED STATES
21 POST OFFICE ACCEPTS CERTIFIED MAIL FOR
22 DELIVERY. THE COST OF THIS MUST BE PAID AT THE
23 TIME OF MAILING AND THE RECEIPT SHOULD BE
24 RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN
25 A TIMELY MANNER.

26
27 THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:
28 ...(Name of Adoption Entity)..., ...(Address of
29 Adoption Entity)..., ...(Phone Number of
30 Adoption Entity).... FOLLOWING 3 BUSINESS DAYS
31 AFTER THE DATE YOU SIGNED THE CONSENT OR 1

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1 BUSINESS DAY AFTER THE DATE OF THE BIRTH
2 MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR
3 BIRTH CENTER, WHICHEVER IS LATER, YOU MAY
4 WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN
5 COURT THAT CONSENT WAS OBTAINED BY FRAUD OR
6 DURESS.

7
8 (5) Before any consent to adoption or affidavit of
9 nonpaternity is executed by a birth parent, but after the
10 birth of the child, all requirements of disclosure under s.
11 63.085 must be met.

12 (6) A copy of each consent signed in an action for
13 termination of parental rights pending adoption must be
14 provided to each person whose consent is required under s.
15 63.062. A copy of each consent must be hand delivered, with a
16 written acknowledgement of receipt signed by the person whose
17 consent is required, or mailed by first class United States
18 mail to the address of record in the court file. If a copy of
19 a consent cannot be provided as required in this section, the
20 adoption entity must execute an acknowledgement that states
21 the reason the copy of the consent is undeliverable. The
22 original consent and acknowledgment of receipt, or the
23 acknowledgment of mailing by the adoption entity, must be
24 filed with the petition for termination of parental rights
25 pending adoption.

26 (7)(5) Consent executed under subsection (4) paragraph
27 (c) may be withdrawn for any reason by notifying the adoption
28 entity in writing by certified United States mail, return
29 receipt requested, not later than 3 business days after
30 execution of the consent or 1 business day after the date of
31 the birth mother's discharge from a licensed hospital or birth

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1 center, whichever occurs later. As used in this subsection,
2 the term "business day" means a day on which the United States
3 Post Office accepts certified mail for delivery. Upon
4 receiving written notice from a person of that person's desire
5 to withdraw consent, the adoption entity must contact the
6 prospective adoptive parent to arrange a time certain for the
7 adoption entity to regain physical custody of the child,
8 unless upon motion for emergency hearing by the adoption
9 entity, the court determines in written findings that
10 placement of the minor with the person withdrawing consent may
11 endanger the minor. If the court finds that such placement may
12 endanger the minor, the court must enter an order regarding
13 continued placement of the child. The order shall include, but
14 not be limited to, whether temporary placement in foster care
15 is appropriate, whether an investigation by the Department of
16 Children and Families is recommended, and whether a relative
17 within the third degree is available for the temporary
18 placement. In addition, if the person withdrawing consent
19 claims to be the father of the minor but has not been
20 established to be the father by marriage, court order, or
21 scientific testing, the court may order scientific paternity
22 testing and reserve ruling on removal of the child until the
23 results of such testing have been filed with the court. The
24 adoption entity must return the minor within 3 days to the
25 physical custody of the person withdrawing consent.
26 Thereafter, consent may be withdrawn only when the court finds
27 that the consent was obtained by fraud or duress. An affidavit
28 of nonpaternity may be withdrawn only if the court finds that
29 the affidavit of nonpaternity was obtained by fraud. The
30 adoption entity must include its name, address, and telephone
31 number on the consent form.

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1 place a minor for adoption.

2 2. Under section 63.092, Florida
3 Statutes, a favorable preliminary home study
4 and a home investigation of the prospective
5 adoptive home must be completed as required by
6 chapter 63, Florida Statutes, before the minor
7 may be placed in that home.

8 3. Under section 63.082, Florida
9 Statutes, a consent for adoption or affidavit
10 of nonpaternity may not be signed until after
11 the birth of the minor. The consent or
12 affidavit of nonpaternity is valid and binding
13 upon execution unless withdrawn as permitted
14 under section 63.082, Florida Statutes. If the
15 minor is to be placed for adoption upon leaving
16 the hospital, the consent may not be signed
17 until 48 hours after birth or the day the birth
18 mother is released from the hospital. If the
19 minor is not placed for adoption upon leaving
20 the hospital, a 3-day revocation period
21 applies. Consent may be withdrawn for any
22 reason by notifying the adoption entity in
23 writing. In order to withdraw consent, the
24 written withdrawal of consent must be mailed no
25 later than 3 business days after execution of
26 the consent or 1 business day after the date of
27 the birth mother's discharge from a licensed
28 hospital or birth center, whichever occurs
29 later. The letter must be mailed certified
30 mail, return receipt requested. This is done by
31 presenting it at any United States Post Office,

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1 and asking that the letter be sent by certified
2 United States mail with return receipt
3 requested. The cost of this must be paid at the
4 time of mailing and the receipt should be
5 retained as proof that consent was withdrawn in
6 a timely manner. For purposes of this chapter,
7 the term "business day" means a day on which
8 the United States Post Office accepts certified
9 mail for delivery. Upon receiving written
10 notice from a person of that person's desire to
11 withdraw consent, the adoption entity must
12 contact the prospective adoptive parent to
13 arrange a time certain to regain physical
14 custody of the child. The adoption entity must
15 return the minor within 3 days to the physical
16 custody of the person withdrawing consent.
17 Thereafter, consent may be withdrawn only if
18 the court finds that consent was obtained by
19 fraud. An affidavit of nonpaternity, once
20 executed, may be withdrawn only if the court
21 finds that it was obtained by fraud.

22 4. Under section 63.082, Florida
23 Statutes, a person who signs a consent or
24 affidavit of nonpaternity for adoption must be
25 given reasonable notice of his or her right to
26 select a person who does not have a
27 partnership, employment, agency, or other
28 professional or personal relationship with the
29 adoption entity or the prospective adoptive
30 parents to be present when the consent or
31 affidavit of nonpaternity is executed and to

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1 sign the consent or affidavit as a witness.
2 5. Under section 63.088, Florida
3 Statutes, specific and extensive efforts are
4 required by law to attempt to obtain the
5 consents required under section 63.062, Florida
6 Statutes. If these efforts are unsuccessful, an
7 order terminating parental rights pending
8 adoption may not be issued by the court until
9 those requirements have been met and an
10 affidavit of service has been filed with the
11 court.

12 6. Under Florida law, an intermediary may
13 represent the legal interests of only the
14 adoptive parents, not of any birth parent. Each
15 person whose consent to an adoption is required
16 under section 63.062, Florida Statutes,
17 including each birth parent, is entitled to
18 seek independent legal advice and
19 representation before signing any document or
20 surrendering parental rights.

21 7. Under section 63.089, Florida
22 Statutes, the termination of parental rights
23 will occur simultaneously with the entry of a
24 judgment terminating parental rights pending
25 adoption.

26 8. Under section 63.182, Florida
27 Statutes, an action or proceeding of any kind
28 to vacate, set aside, or otherwise nullify an
29 order of adoption or an underlying order
30 terminating parental rights pending adoption on
31 any ground, including fraud or duress, must be

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1 filed within 1 year after entry of the order
2 terminating parental rights pending adoption.

3 9. Under section 63.182, Florida
4 Statutes, for 1 year after the entry of a
5 judgment of adoption, any irregularity or
6 procedural defect in the adoption proceeding
7 may be the subject of an appeal contesting the
8 validity of the judgment.

9 10. Under section 63.089, Florida
10 Statutes, a judgment terminating parental
11 rights pending adoption is voidable and any
12 later judgment of adoption of that minor is
13 voidable if, upon the motion of a birth parent,
14 the court finds that any person knowingly gave
15 false information that prevented the birth
16 parent from timely making known his or her
17 desire to assume parental responsibilities
18 toward the minor or meeting the requirements
19 under chapter 63, Florida Statutes, to exercise
20 his or her parental rights. A motion under
21 section 63.089, Florida Statutes, must be filed
22 with the court originally entering the
23 judgment. The motion must be filed within a
24 reasonable time, but not later than 1 year
25 after the date the judgment to which the motion
26 is directed was entered.

27 11. Under section 63.165, Florida
28 Statutes, the State of Florida maintains a
29 registry of adoption information. Information
30 about the registry is available from the
31 Department of Children and Family Services.

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1 12. Under section 63.032, Florida
2 Statutes, a court may find that a birth parent
3 has abandoned his or her child based on conduct
4 during the pregnancy or based on conduct after
5 the child is born. In addition, under section
6 63.089, Florida Statutes, the failure of a
7 birth parent to respond to notices of
8 proceedings involving his or her child shall
9 result in termination of parental rights of a
10 birth parent. A lawyer can explain what a birth
11 parent must do to protect his or her parental
12 rights. Any birth parent wishing to protect his
13 or her parental rights should act IMMEDIATELY.

14 13. Each birth parent and adoptive parent
15 is entitled to independent legal advice and
16 representation. Attorney information may be
17 obtained from the yellow pages, The Florida
18 Bar's lawyer referral service, and local legal
19 aid offices and bar associations.

20 14. There are counseling services
21 available in the community to assist in making
22 a parenting decision. Consult the yellow pages
23 of the telephone directory.

24 15. Medical and social services support
25 is available if the birth parent wishes to
26 retain parental rights and responsibilities.
27 Consult the Department of Children and Family
28 Services.

29
30 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
31 must obtain a written statement acknowledging receipt of the

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1 disclosure required under subsection (1) and signed by the
2 persons receiving the disclosure or, if it is not possible to
3 obtain such an acknowledgement, the adoption entity must
4 execute an affidavit stating why an acknowledgement could not
5 be obtained. A copy of the acknowledgement of receipt of the
6 disclosure must be provided to the person signing it. A copy
7 of the acknowledgement or affidavit executed by the adoption
8 entity in lieu of the acknowledgement must be maintained in
9 the file of the adoption entity. The original acknowledgement
10 or affidavit must be filed with the court. In the case of a
11 disclosure provided under subsection (1), the original
12 acknowledgement or affidavit must be included in the
13 preliminary home study required in s. 63.092(3).

14 (3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.--Before
15 execution of any consent to adoption by a birth parent, but
16 after the birth of the minor, all requirements of subsections
17 (1) and (2) for making certain disclosures to a birth parent
18 and obtaining a written acknowledgment of receipt must be
19 repeated.

20 Section 87. Section 63.087, Florida Statutes, is
21 created to read:

22 63.087 Proceeding to terminate parental rights pending
23 adoption; general provisions.--

24 (1) INTENT.--It is the intent of the Legislature to
25 provide a proceeding in which the court determines whether a
26 minor is legally available for adoption through a separate
27 proceeding to address termination of parental rights prior to
28 the filing of a petition for adoption.

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

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

8 (4) VENUE.--A petition to terminate parental rights
9 pending adoption must be filed in the county where the child
10 resided for the prior 6 months or, if the child is younger
11 than 6 months of age, in the county where the birth mother or
12 birth father resided at the time of the execution of the
13 consent to adoption or the affidavit of nonpaternity, or, if
14 there is no consent or affidavit of nonpaternity executed by a
15 birth parent, in the county where the birth mother resides.

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

22 (6) PETITION.--

23 (a) A proceeding seeking to terminate parental rights
24 pending adoption pursuant to this chapter must be commenced by
25 the filing of an original petition after the birth of the
26 minor.

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

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

31 (d) If a petition for a declaratory statement under s.

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1 63.102 has previously been filed, a subsequent petition to
2 terminate parental rights pending adoption may, at the request
3 of any party or on the court's own motion, be consolidated
4 with that previous action. If the petition to terminate
5 parental rights pending adoption is consolidated with a prior
6 petition filed under this chapter for which a filing fee has
7 been paid, the petitioner may not be charged a subsequent or
8 additional filing fee.

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

15 (f) The petition must include:

16 1. The minor's name, gender, date of birth, and place
17 of birth. The petition must contain all names by which the
18 minor is or has been known, including the minor's legal name
19 at the time of the filing of the petition, to allow interested
20 parties to the action, including birth parents, legal
21 guardians, persons with custodial or visitation rights to the
22 minor, and persons entitled to notice pursuant to the Uniform
23 Child Custody Jurisdiction Act or the Indian Child Welfare
24 Act, to identify their own interest in the action.

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

30 3. Unless the consent of each person whose consent is
31 required under s. 63.062 or an affidavit of nonpaternity is

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1 attached to the petition, the name and address or, if a
2 specific address is unknown, the city, including the county
3 and state in which that city is located, of:

4 a. The minor's mother;

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

7 c. Any legal custodian of the minor.

8
9 If a required name or address is not known, the petition must
10 so state.

11 4. All information required by the Uniform Child
12 Custody Jurisdiction Act and the Indian Child Welfare Act.

13 5. A statement of the grounds under s. 63.089 upon
14 which the petition is based.

15 6. The name, address, and telephone number of any
16 adoption entity seeking to place the minor for adoption.

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

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

24 Notwithstanding the filing of any answer or any pleading, any
25 person present at the hearing to terminate parental rights
26 pending adoption whose consent to adoption is required under
27 s. 63.062 must:

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

31 (b) Be given an opportunity to deny the allegations in

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1 the petition; and

2 (c) Be given the opportunity to challenge the validity
3 of any consents or affidavits of nonpaternity signed by any
4 person.

5 Section 88. Section 63.088, Florida Statutes, is
6 created to read:

7 63.088 Proceeding to terminate parental rights pending
8 adoption; notice and service.--

9 (1) INITIATE LOCATION AND IDENTIFICATION
10 PROCEDURES.--When the location or identity of a person whose
11 consent to an adoption is required but is not known, the
12 adoption entity must begin the inquiry and diligent search
13 process required by this section not later than 7 days after
14 the date on which the person seeking to place a minor for
15 adoption has evidenced in writing to the entity a desire to
16 place the minor for adoption with that entity or not later
17 than 7 days after the date any money is provided as permitted
18 under this chapter by the adoption entity for the benefit of
19 the person seeking to place a minor for adoption.

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

30
31 NOTICE OF PETITION AND HEARING

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1 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

2
3 A petition to terminate parental rights pending
4 adoption has been filed. A copy of the petition
5 is being served with this notice. There will be
6 a hearing on the petition to terminate parental
7 rights pending adoption on ... (date) ... at
8 ... (time) ... before ... (judge) ... at ...
9 (location, including complete name and street
10 address of the courthouse) The court has
11 set aside ... (amount of time) ... for this
12 hearing.

13
14 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
15 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
16 THE COURT OR TO APPEAR AT THIS HEARING
17 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
18 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
19 THE MINOR CHILD.

20
21 (3) REQUIRED INQUIRY.--In all cases filed under this
22 section, the court must conduct the following inquiry of the
23 person who is placing the minor for adoption and of any
24 relative or custodian of the minor who is present at the
25 hearing and likely to have the following information:

26 (a) Whether the mother of the minor was married at any
27 time when conception of the minor may have occurred or at the
28 time of the birth of the minor;

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

31 (c) Whether the mother has received payments or

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1 promises of support with respect to the minor or, because of
2 her pregnancy, from any person she has reason to believe may
3 be the father;

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

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

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

11
12 The information required under this subsection may be provided
13 to the court in the form of a sworn affidavit by a person
14 having personal knowledge of the facts, addressing each
15 inquiry enumerated in this subsection. The inquiry required
16 under this subsection may be conducted before the birth of the
17 minor.

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

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

28 (b) The last known employment of the person, including
29 the name and address of the person's employer. Inquiry should
30 be made of the last known employer as to any address to which
31 wage and earnings statements (W-2 forms) of the person have

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1 been mailed. Inquiry should be made of the last known employer
2 as to whether the person is eligible for a pension or
3 profit-sharing plan and any address to which pension or other
4 funds have been mailed;

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

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

10 (e) Names and addresses of relatives to the extent
11 such can be reasonably obtained from the petitioner or other
12 sources, contacts with those relatives, and inquiry as to the
13 person's last known address. The petitioner shall pursue any
14 leads of any addresses where the person may have moved.
15 Relatives include, but are not limited to, parents, brothers,
16 sisters, aunts, uncles, cousins, nieces, nephews,
17 grandparents, great grandparents, former in-laws, stepparents,
18 and stepchildren;

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

21 (g) Telephone listings in the area where the person
22 last resided;

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

25 (i) Highway patrol records in the state where the
26 person last resided;

27 (j) Department of Corrections records in the state
28 where the person last resided;

29 (k) Hospitals in the area where the person last
30 resided;

31 (l) Records of utility companies, including water,

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1 sewer, cable TV, and electric companies in the area where the
2 person last resided;

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

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

7 (o) Search of one Internet data bank locator service.
8

9 Any person contacted by a petitioner who is requesting
10 information pursuant to this subsection must release the
11 requested information to the petitioner, except when
12 prohibited by law, without the necessity of a subpoena or
13 court order. An affidavit of diligent search executed by the
14 petitioner and the adoption entity must be filed with the
15 court confirming completion of each aspect of the diligent
16 search enumerated in this subsection and specifying the
17 results. The diligent search required under this subsection
18 may be conducted before the birth of the minor.

19 (5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.--This
20 subsection only applies if, as to any person whose consent is
21 required under s. 63.062 and who has not executed an affidavit
22 of nonpaternity, the location or identity of the person is
23 unknown and the inquiry under subsection (3) fails to identify
24 the person or the due diligence search under subsection (4)
25 fails to locate the person. The unlocated or unidentified
26 person must be served notice under s. 63.088(2), of the
27 petition and hearing to terminate parental rights pending
28 adoption by constructive service in the manner provided in
29 chapter 49 in each county identified in the petition, as
30 provided in s. 63.087(6). The notice, in addition to all
31 information required in the petition under s. 63.087(6) and

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1 chapter 49, must contain a physical description, including,
2 but not limited to, age, race, hair and eye color, and
3 approximate height and weight of the minor's mother and of any
4 person the mother reasonably believes may be the father; the
5 minor's date of birth; and any date and city, including the
6 county and state in which the city is located, in which
7 conception may have occurred. If any of the facts that must be
8 included in the petition under this subsection are unknown and
9 cannot be reasonably ascertained, the petition must so state.

10 Section 89. Section 63.089, Florida Statutes, is
11 created to read:

12 63.089 Proceeding to terminate parental rights pending
13 adoption.--

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

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

18 (a) For each person whose consent is required under s.
19 63.062:

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

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

24 3. Notice has been provided under ss. 63.087 and
25 63.088;

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

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

31 2. At least 60 days have elapsed since the first date

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1 of publication of constructive service and an affidavit of
2 service has been filed with the court; or

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

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

6 (d) The petition contains all information required
7 under s. 63.087 and all affidavits of inquiry, due diligence,
8 and service required under s. 63.088 have been obtained and
9 filed with the court.

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

15 (a) Has executed a valid consent that has not been
16 withdrawn under s. 63.082 and the consent was obtained
17 according to the requirements of this chapter;

18 (b) Has executed an affidavit of nonpaternity and the
19 affidavit was obtained according to the requirements of this
20 chapter;

21 (c) Has been properly served notice of the proceeding
22 in accordance with the requirements of this chapter and has
23 failed to file a written answer or appear at the evidentiary
24 hearing resulting in the order terminating parental rights
25 pending adoption;

26 (d) Has abandoned the minor as abandonment is defined
27 in s. 63.032(14);

28 (e) Is a parent of the person to be adopted, which
29 parent has been judicially declared incapacitated with
30 restoration of competency found to be medically improbable;

31 (f) Is a legal guardian or lawful custodian of the

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1 person to be adopted, other than a parent, who has failed to
2 respond in writing to a request for consent for a period of 60
3 days or, after examination of his or her written reasons for
4 withholding consent, is found by the court to be withholding
5 his or her consent unreasonably; or

6 (g) Is the spouse of the person to be adopted who has
7 failed to consent, and the failure of the spouse to consent to
8 the adoption is excused by reason of prolonged and unexplained
9 absence, unavailability, incapacity, or circumstances that are
10 found by the court to constitute unreasonable withholding of
11 consent.

12 (4) FINDING OF ABANDONMENT.--A finding of abandonment
13 resulting in a termination of parental rights must be based
14 upon clear and convincing evidence. A finding of abandonment
15 may not be based upon a lack of emotional support to a birth
16 mother during her pregnancy.

17 (a) In making a determination of abandonment the court
18 must consider:

19 1. Whether the actions alleged to constitute
20 abandonment demonstrate a willful disregard for the safety of
21 the child or unborn child;

22 2. Whether other persons prevented the person alleged
23 to have abandoned the child from making the efforts referenced
24 in this subsection;

25 3. Whether the person alleged to have abandoned the
26 child, while being able, refused to provide financial support
27 when such support was requested by the child's legal guardian
28 or custodian;

29 4. Whether the person alleged to have abandoned the
30 child, while being able, refused to pay for medical treatment
31 when such payment was requested by the child's legal guardian

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1 or custodian and those expenses were not covered by insurance
2 or other available sources;

3 5. Whether the amount of support provided or medical
4 expenses paid was appropriate, taking into consideration the
5 needs of the child and relative means and resources available
6 to the person alleged to have abandoned the child and
7 available to the child's legal guardian or custodian during
8 the period the child allegedly was abandoned; and

9 6. Whether the child's legal guardian or custodian
10 made the child's whereabouts known to the person alleged to
11 have abandoned the child; advised that person of the needs of
12 the child or the needs of the mother of an unborn child with
13 regard to the pregnancy; or informed that person of events
14 such as medical appointments and tests relating to the child
15 or, if unborn, the pregnancy.

16 (b) The child has been abandoned when the parent of a
17 child is incarcerated on or after October 1, 1998, in a state
18 or federal correctional institution and sentenced to a term of
19 incarceration of 8 years or longer, regardless of how long the
20 person is actually incarcerated under that sentence or how
21 long the person will be incarcerated after October 1, 1998,
22 and:

23 1. The period of time for which the parent is expected
24 to be incarcerated will constitute a substantial portion of
25 the period of time before the child will attain the age of 18
26 years;

27 2. The incarcerated parent has been determined by the
28 court to be a violent career criminal as defined in s.
29 775.084, a habitual violent felony offender as defined in s.
30 775.084, or a sexual predator as defined in s. 775.21; has
31 been convicted of first degree or second degree murder in

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1 violation of s. 782.04 or a sexual battery that constitutes a
2 capital, life, or first degree felony violation of s. 794.011;
3 or has been convicted of an offense in another jurisdiction
4 which is substantially similar to one of the offenses listed
5 in this paragraph. As used in this section, the term
6 "substantially similar offense" means any offense that is
7 substantially similar in elements and penalties to one of
8 those listed in this paragraph, and that is in violation of a
9 law of any other jurisdiction, whether that of another state,
10 the District of Columbia, the United States or any possession
11 or territory thereof, or any foreign jurisdiction; and

12 3. The court determines by clear and convincing
13 evidence that continuing the parental relationship with the
14 incarcerated parent would be harmful to the child and, for
15 this reason, that termination of the parental rights of the
16 incarcerated parent is in the best interest of the child.

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

22 (5) DISMISSAL OF CASE WITH PREJUDICE.--If the court
23 does not find by clear and convincing evidence that parental
24 rights of a birth parent should be terminated pending
25 adoption, the court must dismiss the case with prejudice and
26 that birth parent's parental rights remain in full force under
27 the law. Parental rights may not be terminated based upon a
28 consent that the court finds has been timely withdrawn under
29 s. 63.082 or a consent or affidavit of nonpaternity that the
30 court finds was obtained by fraud. The court must enter an
31 order based upon written findings providing for the placement

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1 of the minor. The court may order scientific testing to
2 determine the paternity of the minor at any time during which
3 the court has jurisdiction over the minor. Further
4 proceedings, if any, regarding the minor must be brought in a
5 separate custody action under chapter 61, a dependency action
6 under chapter 39, or a paternity action under chapter 742.

7 (6) A JUDGMENT TERMINATING PARENTAL RIGHTS PENDING
8 ADOPTION.--

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

12 (b) The clerk of the court shall mail a copy of the
13 judgment within 24 hours after filing to the department, the
14 petitioner, and the respondent. The clerk shall execute a
15 certificate of each mailing.

16 (c) A judgment terminating parental rights pending
17 adoption is voidable and any later judgment of adoption of
18 that minor is voidable if, upon the motion of a birth parent,
19 the court finds that a person knowingly gave false information
20 that prevented the birth parent from timely making known his
21 or her desire to assume parental responsibilities toward the
22 minor or meeting the requirements under this chapter to
23 exercise his or her parental rights. A motion under this
24 paragraph must be filed with the court originally entering the
25 judgment. The motion must be filed within a reasonable time,
26 but not later than 1 year after the date the termination of
27 parental rights final order was entered.

28 (d) Not later than 30 days after the filing of a
29 motion under this subsection, the court must conduct a
30 preliminary hearing to determine what contact, if any, shall
31 be permitted between a birth parent and the child pending

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1 resolution of the motion. Such contact shall only be
2 considered if it is requested by a birth parent who has
3 appeared at the hearing. If the court orders contact between a
4 birth parent and child, the order must be issued in writing as
5 expeditiously as possible and must state with specificity any
6 provisions regarding contact with persons other than those
7 with whom the child resides.

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

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

22 (7) RECORDS; CONFIDENTIAL INFORMATION.--All records
23 pertaining to a petition to terminate parental rights pending
24 adoption are records related to the subsequent adoption of the
25 minor and are subject to the provisions of s. 63.162, as such
26 provisions apply to records of an adoption proceeding. The
27 confidentiality provisions of this chapter do not apply to the
28 extent information regarding persons or proceedings must be
29 made available as specified under s. 63.088.

30 Section 90. Section 63.092, Florida Statutes, is
31 amended to read:

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1 63.092 Report to the court of intended placement by an
2 intermediary; preliminary study.--

3 (1) REPORT TO THE COURT.--The adoption entity
4 ~~intermediary~~ must report any intended placement of a minor for
5 adoption with any person not related within the third degree
6 or a stepparent if the adoption entity ~~intermediary~~ has
7 knowledge of, or participates in, such intended placement. The
8 report must be made to the court before the minor is placed in
9 the home.

10 (2) AT-RISK PLACEMENT.--If the minor is placed in the
11 prospective adoptive home before the parental rights of the
12 minor's birth parents are terminated under s. 63.089, the
13 placement is an at-risk placement. If the placement is an
14 at-risk placement, the prospective adoptive parents must
15 acknowledge in writing before the minor may be placed in the
16 prospective adoptive home that the placement is at risk and
17 that the minor is subject to removal from the prospective
18 adoptive home by the adoption entity or by court order.

19 (3)~~(2)~~ PRELIMINARY HOME STUDY.--Before placing the
20 minor in the intended adoptive home, a preliminary home study
21 must be performed by a licensed child-placing agency, a
22 licensed professional, or agency described in s. 61.20(2),
23 unless the petitioner is a stepparent, a spouse of the birth
24 parent, or a relative. The preliminary study shall be
25 completed within 30 days after the receipt by the court of the
26 adoption entity's ~~intermediary's~~ report, but in no event may
27 the minor ~~child~~ be placed in the prospective adoptive home
28 prior to the completion of the preliminary study unless
29 ordered by the court. If the petitioner is a stepparent, a
30 spouse of the birth parent, or a relative, the preliminary
31 home study may be required by the court for good cause shown.

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1 The department is required to perform the preliminary home
2 study only if there is no licensed child-placing agency,
3 licensed professional, or agency described in s. 61.20(2), in
4 the county where the prospective adoptive parents reside. The
5 preliminary home study must be made to determine the
6 suitability of the intended adoptive parents and may be
7 completed prior to identification of a prospective adoptive
8 minor child. A favorable preliminary home study is valid for
9 1 year after the date of its completion. A minor may child
10 ~~must~~ not be placed in an intended adoptive home before a
11 favorable preliminary home study is completed unless the
12 adoptive home is also a licensed foster home under s. 409.175.
13 The preliminary home study must include, at a minimum:

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

15 (b) Records checks of the department's central abuse
16 registry under chapter 415 and statewide criminal records
17 correspondence checks through the Department of Law
18 Enforcement on the intended adoptive parents;

19 (c) An assessment of the physical environment of the
20 home;

21 (d) A determination of the financial security of the
22 intended adoptive parents;

23 (e) Documentation of counseling and education of the
24 intended adoptive parents on adoptive parenting;

25 (f) Documentation that information on adoption and the
26 adoption process has been provided to the intended adoptive
27 parents;

28 (g) Documentation that information on support services
29 available in the community has been provided to the intended
30 adoptive parents; and

31 (h) A copy of each ~~the~~ signed acknowledgement

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1 ~~statement required by s. 63.085+ and~~

2 ~~(i) A copy of the written acknowledgment required by~~
3 ~~s. 63.085(1).~~

4
5 If the preliminary home study is favorable, a minor may be
6 placed in the home pending entry of the judgment of adoption.
7 A minor may not be placed in the home if the preliminary home
8 study is unfavorable. If the preliminary home study is
9 unfavorable, the intermediary or petitioner may, within 20
10 days after receipt of a copy of the written recommendation,
11 petition the court to determine the suitability of the
12 intended adoptive home. A determination as to suitability
13 under this subsection does not act as a presumption of
14 suitability at the final hearing. In determining the
15 suitability of the intended adoptive home, the court must
16 consider the totality of the circumstances in the home.

17 Section 91. Section 63.097, Florida Statutes, is
18 amended to read:

19 63.097 Fees.--

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

23 (a) Reasonable living expenses of the birth mother
24 which the birth mother is unable to pay due to involuntary
25 unemployment, medical disability due to the pregnancy which is
26 certified by a medical professional who has examined the birth
27 mother, or any other disability defined in s. 110.215.

28 Reasonable living expenses are rent, utilities, basic
29 telephone service, food, necessary clothing, transportation,
30 and items included in the affidavit filed under s. 63.132 and
31 found by the court to be necessary for the health of the

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1 unborn child.

2 (b) Reasonable and necessary medical expenses.

3 (c) Expenses necessary to comply with the requirements
4 of this chapter including, but not limited to, service of
5 process under s. 63.088, a due diligence search under s.
6 63.088, a preliminary home study under s. 63.092, and a final
7 home study under s. 63.125.

8 (d) Court filing expenses, court costs, and other
9 litigation expenses.

10 (e) Costs associated with advertising under s.
11 63.212(1)(h).

12 (f) The following professional fees:

13 1. A reasonable hourly fee necessary to provide legal
14 representation to the adoptive parents in a proceeding filed
15 under this chapter.

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

26 3. A reasonable hourly fee for counseling services
27 provided to a birth parent or adoptive parent by a
28 psychologist licensed under chapter 490 or a clinical social
29 worker, marriage and family therapist, or mental health
30 counselor licensed under chapter 491.

31 (2) Prior approval of the court is not required until

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1 the cumulative total of amounts permitted under subsection (1)
2 exceeds:

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

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

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

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

10 (4) The following fees, costs, and expenses are
11 prohibited:

12 1. Any fee or expense that constitutes payment for
13 locating a minor for adoption.

14 2. Cumulative expenses in excess of a total of \$500
15 related to the minor, the pregnancy, a birth parent, or
16 adoption proceeding which are incurred prior to the date the
17 prospective adoptive parent retains the adoption entity.

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

21 4. Any fee on the affidavit which does not specify the
22 service that was provided and for which the fee is being
23 charged, such as a fee for facilitation, acquisition, or other
24 similar service, or which does not identify the date the
25 service was provided, the time required to provide the
26 service, the person or entity providing the service, and the
27 hourly fee charged.

28 ~~(1) APPROVAL OF FEES TO INTERMEDIARIES. Any fee over~~
29 ~~\$1,000 and those costs as set out in s. 63.212(1)(d) over~~
30 ~~\$2,500, paid to an intermediary other than actual, documented~~
31 ~~medical costs, court costs, and hospital costs must be~~

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1 ~~approved by the court prior to assessment of the fee by the~~
 2 ~~intermediary and upon a showing of justification for the~~
 3 ~~larger fee.~~

4 ~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.~~ When an
 5 intermediary uses the services of a licensed child-placing
 6 agency, a professional, any other person or agency pursuant to
 7 s. 63.092, or, if necessary, the department, the person
 8 seeking to adopt the child must pay the licensed child-placing
 9 agency, professional, other person or agency, or the
 10 department an amount equal to the cost of all services
 11 performed, including, but not limited to, the cost of
 12 conducting the preliminary home study, counseling, and the
 13 final home investigation. The court, upon a finding that the
 14 person seeking to adopt the child is financially unable to pay
 15 that amount, may order that such person pay a lesser amount.

16 Section 92. Section 63.102, Florida Statutes, is
 17 amended to read:

18 63.102 Filing of petition; venue; proceeding for
 19 approval of fees and costs.--

20 (1) After a court order terminating parental rights
 21 has been issued, a proceeding for adoption may shall be
 22 commenced by filing a petition entitled, "In the Matter of the
 23 Adoption of" in the circuit court. The person to be
 24 adopted shall be designated in the caption in the name by
 25 which he or she is to be known if the petition is granted. ~~if~~
 26 ~~the child is placed for adoption by an agency,~~ Any name by
 27 which the minor child was previously known may shall not be
 28 disclosed in the petition, the notice of hearing, or the
 29 judgment of adoption.

30 (2) A petition for adoption or for a declaratory
 31 statement as to the adoption contract shall be filed in the

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1 county where the petitioner or petitioners or the minor child
2 resides or where the agency or intermediary with ~~in~~ which the
3 minor child has been placed is located.

4 (3) Except for adoptions involving placement of a
5 minor child with a relative within the third degree of
6 consanguinity, a petition for adoption in an adoption handled
7 by an intermediary shall be filed within 30 working days after
8 placement of a minor child with a parent seeking to adopt the
9 minor child. If no petition is filed within 30 days, any
10 interested party, including the state, may file an action
11 challenging the prospective adoptive parent's physical custody
12 of the minor child.

13 (4) If the filing of the petition for adoption or for
14 a declaratory statement as to the adoption contract in the
15 county where the petitioner or minor child resides would tend
16 to endanger the privacy of the petitioner or minor child, the
17 petition for adoption may be filed in a different county,
18 provided the substantive rights of any person will not thereby
19 be affected.

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

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

28 (b) A contract for the payment of fees, costs, and
29 expenditures permitted under this chapter must be in writing,
30 and any person who enters into the contract has 3 business
31 days in which to cancel the contract. To cancel the contract,

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1 the person must notify the adoption entity in writing by
2 certified United States mail, return receipt requested, no
3 later than 3 business days after signing the contract. For the
4 purposes of this subsection, the term "business day" means a
5 day on which the United States Post Office accepts certified
6 mail for delivery. If the contract is canceled within the
7 first 3 business days, the person who cancels the contract
8 does not owe any legal, intermediary, or other fees, but may
9 be responsible for the adoption entity's actual costs during
10 that time.

11 (c) The court may grant prior approval only of fees
12 and expenditures permitted under s. 63.097. A prior approval
13 of prospective fees and costs does not create a presumption
14 that these items will subsequently be approved by the court
15 under s. 63.132 unless such a finding is supported by the
16 evidence submitted at that time. The court retains
17 jurisdiction to order an adoption entity to refund to the
18 person who enters into the contract any sum or portion of a
19 sum preapproved under this subsection if, upon submission of a
20 complete accounting of fees, costs, and expenses in an
21 affidavit required under s. 63.132, the court finds the fees,
22 costs, and expenses actually incurred to be less than the sums
23 approved prospectively under this subsection.

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

28 (e) If a petition for adoption is filed under this
29 section subsequent to the filing of a petition for a
30 declaratory statement or a petition to terminate parental
31 rights pending adoption, the previous petition may, at the

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1 request of any party or on the court's own motion, be
2 consolidated with the petition for adoption. If the petition
3 for adoption is consolidated with a prior petition filed under
4 this chapter for which a filing fee has been paid, the
5 petitioner may not be charged any subsequent or additional
6 filing fee.

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

12 Section 93. Section 63.112, Florida Statutes, is
13 amended to read:

14 63.112 Petition for adoption; description; report or
15 recommendation, exceptions; mailing.--

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

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

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

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

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

27 (e) The marital status of the petitioner, including
28 the date and place of marriage, if married, and divorces, if
29 any;

30 (f) The facilities and resources of the petitioner,
31 including those under a subsidy agreement, available to

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1 provide for the care of the minor to be adopted;

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

4 (h) The case style and date of entry of the order
5 terminating parental rights or the judgment declaring a minor
6 available for adoption name and address, if known, of any
7 ~~person whose consent to the adoption is required, but who has~~
8 ~~not consented, and facts or circumstances that excuse the lack~~
9 ~~of consent; and~~

10 (i) The reasons why the petitioner desires to adopt
11 the person.

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

14 (a) A certified copy of the court order terminating
15 parental rights under chapter 39 or the judgment declaring a
16 minor available for adoption under this chapter ~~The required~~
17 ~~consents, unless consent is excused by the court.~~

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

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

24 1. ~~The birth mother, if parental rights have not been~~
25 ~~terminated;~~

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

28 3. ~~the minor child, if older than 12 years of age,~~
29 unless the court, in the best interest of the minor child,
30 dispenses with the minor's ~~child's~~ consent under s.

31 63.062(1)(e)~~63.062(1)(c)~~.

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

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

9 (4) The clerk of the court shall mail a copy of the
10 petition within 24 hours after filing, and execute a
11 certificate of mailing, to the department and the agency
12 placing the minor, if any.

13 Section 94. Section 63.122, Florida Statutes, is
14 amended to read:

15 63.122 Notice of hearing on petition.--

16 (1) After the petition to adopt a minor is filed, the
17 court must establish a time and place for hearing the
18 petition. The hearing may ~~must~~ not be held sooner than 30 days
19 after the date the judgment terminating parental rights was
20 entered or sooner than 90 days after the date the minor was
21 placed ~~the placing of the minor~~ in the physical custody of the
22 petitioner. The minor must remain under the supervision of
23 the department, an intermediary, or a licensed child-placing
24 agency until the adoption becomes final. When the petitioner
25 is a spouse of the birth parent, the hearing may be held
26 immediately after the filing of the petition.

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

30 (3) Upon a showing by the petitioner that the privacy
31 of the petitioner or minor child may be endangered, the court

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1 may order the names of the petitioner or minor child, or both,
 2 to be deleted from the notice of hearing and from the copy of
 3 the petition attached thereto, provided the substantive rights
 4 of any person will not thereby be affected.

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

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

9 ~~(b) The intermediary.~~

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

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

14 (5) After filing the petition to adopt an adult, a
 15 notice of the time and place of the hearing must be given to
 16 any person whose consent to the adoption is required but who
 17 has not consented. The court may order an appropriate
 18 investigation to assist in determining whether the adoption is
 19 in the best interest of the persons involved.

20 Section 95. Section 63.125, Florida Statutes, is
 21 amended to read:

22 63.125 Final home investigation.--

23 (1) The final home investigation must be conducted
 24 before the adoption becomes final. The investigation may be
 25 conducted by a licensed child-placing agency or a professional
 26 in the same manner as provided in s. 63.092 to ascertain
 27 whether the adoptive home is a suitable home for the minor and
 28 whether the proposed adoption is in the best interest of the
 29 minor. Unless directed by the court, an investigation and
 30 recommendation are not required if the petitioner is a
 31 stepparent or if the minor child is related to one of the

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1 adoptive parents within the third degree of consanguinity.
2 The department is required to perform the home investigation
3 only if there is no licensed child-placing agency or
4 professional pursuant to s. 63.092 in the county in which the
5 prospective adoptive parent resides.

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

11 (3) The report of the investigation must contain an
12 evaluation of the placement with a recommendation on the
13 granting of the petition for adoption and any other
14 information the court requires regarding the petitioner or the
15 minor.

16 (4) The department, the licensed child-placing agency,
17 or the professional making the required investigation may
18 request other state agencies or child-placing agencies within
19 or outside this state to make investigations of designated
20 parts of the inquiry and to make a written report to the
21 department, the professional, or other person or agency.

22 (5) The final home investigation must include:

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

24 (b) After the minor child is placed in the intended
25 adoptive home, two scheduled visits with the minor child and
26 the minor's child's adoptive parent or parents, one of which
27 visits must be in the home, to determine the suitability of
28 the placement.

29 (c) The family social and medical history as provided
30 in s. 63.082.

31 (d) Any other information relevant to the suitability

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1 of the intended adoptive home.

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

4 Section 96. Section 63.132, Florida Statutes, is
5 amended to read:

6 63.132 Affidavit ~~Report~~ of expenditures and
7 receipts.--

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

12 (a) The affidavit must be signed by the adoption
13 entity and the prospective adoptive parents. A copy of the
14 affidavit must be provided to the adoptive parents at the time
15 the affidavit is executed.

16 (b) The affidavit must itemize ~~containing a full~~
17 ~~accounting of~~ all disbursements and receipts of anything of
18 value, including professional and legal fees, made or agreed
19 to be made by or on behalf of the petitioner and any adoption
20 entity intermediary in connection with the adoption or in
21 connection with any prior proceeding to terminate parental
22 rights which involved the minor who is the subject of the
23 petition for adoption. The affidavit must also include, for
24 each fee itemized, the service provided for which the fee is
25 being charged, the date the service was provided, the time
26 required to provide the service, the person or entity that
27 provided the service, and the hourly fee charged.

28 (c) The clerk of the court shall forward a copy of the
29 affidavit to the department. The department must retain these
30 records for 5 years. Copies of affidavits received by the
31 department under this subsection must be provided upon the

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1 request of any person. The department must redact all
2 identifying references to the minor, the birth parent, or the
3 adoptive parent from any affidavit released by the department.
4 The name of the adoption entity may not be redacted. The
5 intent of this paragraph is to create a resource for adoptive
6 parents and others wishing to obtain information about the
7 cost of adoption in this state.

8 (d) The affidavit ~~report~~ must show any expenses or
9 receipts incurred in connection with:

10 1.~~(a)~~ The birth of the minor.

11 2.~~(b)~~ The placement of the minor with the petitioner.

12 3.~~(c)~~ The medical or hospital care received by the
13 mother or by the minor during the mother's prenatal care and
14 confinement.

15 4.~~(d)~~ The living expenses of the birth mother. The
16 living expenses must be documented in detail to apprise the
17 court of the exact expenses incurred.

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

22
23 The affidavit must state whether any of these expenses were or
24 are eligible to be paid for by collateral sources, including,
25 but not limited to, health insurance, Medicaid, Medicare, or
26 public assistance.

27 (2) The court may require such additional information
28 as is deemed necessary.

29 (3) The court must issue a separate order approving or
30 disapproving the fees, costs, and expenditures itemized in the
31 affidavit. The court may approve only fees, costs, and

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1 expenditures allowed under s. 63.097. The court may reject in
 2 whole or in part any fee, cost, or expenditure listed if the
 3 court finds that the expense is:

- 4 (a) Contrary to this chapter;
 5 (b) Not supported by a receipt in the record, if the
 6 expense is not a fee of the adoption entity; or
 7 (c) Not deemed by the court to be a reasonable fee or
 8 expense, taking into consideration the requirements of this
 9 chapter and the totality of the circumstances.

10 (4)(3) This section does not apply to an adoption by a
 11 stepparent whose spouse is a birth natural or adoptive parent
 12 of the minor child.

13 Section 97. Section 63.142, Florida Statutes, is
 14 amended to read:

15 63.142 Hearing; judgment of adoption.--

16 (1) APPEARANCE.--The petitioner and the person to be
 17 adopted shall appear at the hearing on the petition for
 18 adoption, unless:

- 19 (a) The person is a minor under 12 years of age; or
 20 (b) The presence of either is excused by the court for
 21 good cause.

22 (2) CONTINUANCE.--The court may continue the hearing
 23 from time to time to permit further observation,
 24 investigation, or consideration of any facts or circumstances
 25 affecting the granting of the petition.

26 (3) DISMISSAL.--

- 27 (a) If the petition is dismissed, the court shall
 28 determine the person that is to have custody of the minor.
 29 (b) If the petition is dismissed, the court shall
 30 state with specificity the reasons for the dismissal.

31 (4) JUDGMENT.--At the conclusion of the hearing, after

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1 ~~when~~ the court determines that the date for a birth parent to
2 file an appeal of a valid judgment terminating that birth
3 parent's parental rights has passed and no appeal is pending
4 ~~all necessary consents have been obtained~~ and that the
5 adoption is in the best interest of the person to be adopted,
6 a judgment of adoption shall be entered.

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

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

30 (c) At the preliminary hearing, the court, upon the
31 motion of any party or its own motion, may order scientific

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1 testing to determine the paternity of the minor if the person
2 seeking to set aside the judgment is alleging to be the
3 child's birth father and that fact has not previously been
4 determined by legitimacy or scientific testing. The court may
5 order supervised visitation with a person from whom scientific
6 testing for paternity has been ordered conditional upon the
7 filing of those test results with the court and such results
8 establish that person's paternity of the minor.

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

13 Section 98. Section 63.152, Florida Statutes, is
14 amended to read:

15 63.152 Application for new birth record.--Within 30
16 days after entry of a judgment of adoption, the clerk of the
17 court, and in agency adoptions, any child-placing agency
18 licensed by the department, shall prepare a certified
19 statement of the entry for the state registrar of vital
20 statistics on a form provided by the registrar. The clerk of
21 the court must mail a copy of the form completed under this
22 section to the state registry of adoption information under s.
23 63.165.A new birth record containing the necessary
24 information supplied by the certificate shall be issued by the
25 registrar on application of the adopting parents or the
26 adopted person.

27 Section 99. Section 63.165, Florida Statutes, is
28 amended to read:

29 63.165 State registry of adoption information; duty to
30 inform and explain.--Notwithstanding any other law to the
31 contrary, the department shall maintain a registry with the

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1 last known names and addresses of an adoptee and his or her
2 birth natural parents and adoptive parents; the certified
3 statement of the final decree of adoption provided by the
4 clerk of the court under s. 63.152;and any other identifying
5 information that ~~which~~ the adoptee, birth natural parents, or
6 adoptive parents desire to include in the registry. The
7 department shall maintain the registry records for the time
8 required by rules adopted by the department in accordance with
9 this chapter or for 99 years, whichever period is greater.The
10 registry shall be open with respect to all adoptions in the
11 state, regardless of when they took place. The registry shall
12 be available for those persons choosing to enter information
13 therein, but no one shall be required to do so.

14 (1) Anyone seeking to enter, change, or use
15 information in the registry, or any agent of such person,
16 shall present verification of his or her identity and, if
17 applicable, his or her authority. A person who enters
18 information in the registry shall be required to indicate
19 clearly the persons to whom he or she is consenting to release
20 this information, which persons shall be limited to the
21 adoptee and the birth natural mother, birth natural father,
22 adoptive mother, adoptive father, birth natural siblings, and
23 maternal and paternal birth natural grandparents of the
24 adoptee. Except as provided in this section, information in
25 the registry is confidential and exempt from ~~the provisions of~~
26 s. 119.07(1). Consent to the release of this information may
27 be made in the case of a minor adoptee by his or her adoptive
28 parents or by the court after a showing of good cause. At any
29 time, any person may withdraw, limit, or otherwise restrict
30 consent to release information by notifying the department in
31 writing.

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1 (2) The department may charge a reasonable fee to any
2 person seeking to enter, change, or use information in the
3 registry. The department shall deposit such fees in a trust
4 fund to be used by the department only for the efficient
5 administration of this section. The department and agencies
6 shall make counseling available for a fee to all persons
7 seeking to use the registry, and the department shall inform
8 all affected persons of the availability of such counseling.

9 (3) The department, intermediary, or licensed
10 child-placing agency must inform the birth parents before
11 parental rights are terminated, and the adoptive parents
12 before placement, in writing, of the existence and purpose of
13 the registry established under this section, but failure to do
14 so does not affect the validity of any proceeding under this
15 chapter.

16 Section 100. Section 63.182, Florida Statutes, is
17 amended to read:

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

20 63.182 Statute of repose.--An action or proceeding of
21 any kind to vacate, set aside, or otherwise nullify an order
22 of adoption or an underlying order terminating parental rights
23 on any ground, including fraud or duress, must be filed within
24 1 year after entry of the order terminating parental rights.

25 Section 101. Section 63.207, Florida Statutes, is
26 amended to read:

27 63.207 Out-of-state placement.--

28 (1) Unless the minor child is to be placed with a
29 relative within the third degree or with a stepparent, or is a
30 special needs child as defined in s. 409.166, an adoption
31 entity may not no person except an intermediary, an agency, or

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1 ~~the department shall:~~

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

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

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

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

31 Section 102. Section 63.212, Florida Statutes, is

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1 amended to read:

2 63.212 Prohibited acts; penalties for violation.--

3 (1) It is unlawful for any person:

4 (a) Except an adoption entity ~~the department, an~~
5 ~~intermediary, or an agency~~, to place or attempt to place a
6 minor child for adoption with a person who primarily lives and
7 works outside this state unless the minor child is placed with
8 a relative within the third degree or with a stepparent or is
9 a special needs child as defined in s. 409.166. An adoption
10 entity intermediary may place or attempt to place a special
11 needs child for adoption with a person who primarily lives and
12 works outside this state only if the adoption entity
13 ~~intermediary~~ has a declaratory statement from the court
14 establishing the fees to be paid under s. 63.207. This
15 requirement does not apply if the minor child is placed with a
16 relative within the third degree or with a stepparent.

17 (b) Except an adoption entity ~~the department, an~~
18 ~~intermediary, or an agency~~, to place or attempt to place a
19 minor child for adoption with a family whose primary residence
20 and place of employment is in another state unless the minor
21 ~~child~~ is placed with a relative within the third degree or
22 with a stepparent. An adoption entity intermediary may place
23 or attempt to place a special needs child for adoption with a
24 family whose primary residence and place of employment is in
25 another state only if the adoption entity intermediary has a
26 declaratory statement from the court establishing the fees to
27 be paid. This requirement does not apply if the special needs
28 child is placed with a relative within the third degree or
29 with a stepparent.

30 (c) Except an adoption entity ~~the Department of~~
31 ~~Children and Family Services, an agency, or an intermediary,~~

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1 to place or attempt to place within the state a minor child
2 for adoption unless the minor child is placed with a relative
3 within the third degree or with a stepparent. This
4 prohibition, however, does not apply to a person who is
5 placing or attempting to place a minor child for the purpose
6 of adoption with the adoption entity ~~Department of Children~~
7 ~~and Family Services or an agency or through an intermediary.~~

8 (d) To sell or surrender, or to arrange for the sale
9 or surrender of, a minor child to another person for money or
10 anything of value or to receive such minor child for such
11 payment or thing of value. If a minor child is being adopted
12 by a relative within the third degree or by a stepparent, or
13 is being adopted through an adoption entity, this paragraph
14 does not prohibit ~~the Department of Children and Family~~
15 ~~Services, an agency, or an intermediary, nothing herein shall~~
16 ~~be construed as prohibiting~~ the person who is contemplating
17 adopting the child from paying, under s. 63.097 and s. 63.132,
18 the actual prenatal care and living expenses of the mother of
19 the child to be adopted, nor from paying, under s. 63.097 and
20 s. 63.132, the actual living and medical expenses of such
21 mother for a reasonable time, not to exceed 6 weeks, if
22 medical needs require such support, after the birth of the
23 minor child.

24 (e) Having the rights and duties of a parent with
25 respect to the care and custody of a minor to assign or
26 transfer such parental rights for the purpose of, incidental
27 to, or otherwise connected with, selling or offering to sell
28 such rights and duties.

29 (f) To assist in the commission of any act prohibited
30 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),
31 or paragraph (e).

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

5 (h) Except an adoption entity ~~the Department of~~
6 ~~Children and Family Services, an agency, or an intermediary~~,
7 to advertise or offer to the public, in any way, by any medium
8 whatever that a minor child is available for adoption or that
9 a minor child is sought for adoption; and further, it is
10 unlawful for any person to publish or broadcast any such
11 advertisement without including a Florida license number of
12 the agency ~~or attorney, or physician~~ placing the
13 advertisement.

14 (i) To contract for the purchase, sale, or transfer of
15 custody or parental rights in connection with any child, ~~or~~ in
16 connection with any fetus yet unborn, or in connection with
17 any fetus identified in any way but not yet conceived, in
18 return for any valuable consideration. Any such contract is
19 void and unenforceable as against the public policy of this
20 state. However, fees, costs, and other incidental payments
21 made in accordance with statutory provisions for adoption,
22 foster care, and child welfare are permitted, and a person may
23 agree to pay expenses in connection with a preplanned adoption
24 agreement as specified below, but the payment of such expenses
25 may not be conditioned upon the transfer of parental rights.
26 Each petition for adoption which is filed in connection with a
27 preplanned adoption agreement must clearly identify the
28 adoption as a preplanned adoption arrangement and must include
29 a copy of the preplanned adoption agreement for review by the
30 court.

31 1. Individuals may enter into a preplanned adoption

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1 arrangement as specified herein, but such arrangement shall
2 not in any way:

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

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

13 2. A preplanned adoption arrangement shall be based
14 upon a preplanned adoption agreement that must ~~which shall~~
15 include, but need not be limited to, the following terms:

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

23 b. That the volunteer mother agrees to submit to
24 reasonable medical evaluation and treatment and to adhere to
25 reasonable medical instructions about her prenatal health.

26 c. That the volunteer mother acknowledges that she is
27 aware that she will assume parental rights and
28 responsibilities for the child born to her as otherwise
29 provided by law for a mother, if the intended father and
30 intended mother terminate the agreement before final transfer
31 of custody is completed, or if a court determines that a

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1 parent clearly specified by the preplanned adoption agreement
2 to be the biological parent is not the biological parent, or
3 if the preplanned adoption is not approved by the court
4 pursuant to the Florida Adoption Act.

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

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

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

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

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

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1 i. That the agreement may be terminated at any time by
2 any of the parties.

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

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

9 b. Requiring the termination of the volunteer mother's
10 pregnancy.

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

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

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

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

30 b. "Child" means the child or children conceived by
31 means of an insemination that is part of a preplanned adoption

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1 arrangement.

2 c. "Fertility technique" means artificial
3 embryonation, artificial insemination, whether in vivo or in
4 vitro, egg donation, or embryo adoption.

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

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

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

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

24 h. "Preplanned adoption arrangement" means the
25 arrangement through which the parties enter into an agreement
26 for the volunteer mother to bear the child, for payment by the
27 intended father and intended mother of the expenses allowed by
28 this act, for the intended father and intended mother to
29 assert full parental rights and responsibilities to the child
30 if consent to adoption is not rescinded after birth by the
31 volunteer mother, and for the volunteer mother to terminate,

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1 subject to a right of rescission, in favor of the intended
2 father and intended mother all her parental rights and
3 responsibilities to the child.

4 i. "Volunteer mother" means a female person at least
5 18 years of age who voluntarily agrees, subject to a right of
6 rescission, that if she should become pregnant pursuant to a
7 preplanned adoption arrangement, she will terminate in favor
8 of the intended father and intended mother her parental rights
9 and responsibilities to the child.

10 (2) This section does not ~~Nothing herein shall be~~
11 ~~construed to~~ prohibit a licensed child-placing agency from
12 charging fees reasonably commensurate to the services
13 provided.

14 (3) It is unlawful for any adoption entity
15 ~~intermediary~~ to fail to report to the court, prior to
16 placement, the intended placement of a minor child for
17 purposes of adoption with any person not a stepparent or a
18 relative within the third degree, if the adoption entity
19 ~~intermediary~~ participates in such intended placement.

20 (4) It is unlawful for any adoption entity
21 ~~intermediary~~ to charge any fee over \$1,000 and those costs as
22 set out in paragraph (1)(d) over \$2,500, other than for actual
23 documented medical costs, court costs, and hospital costs
24 unless such fee is approved by the court prior to the
25 assessment of the fee by the adoption entity ~~intermediary~~ and
26 upon a showing of justification for the larger fee.

27 (5) It is unlawful for any adoption entity
28 ~~intermediary~~ to counsel a birth mother to leave the state for
29 the purpose of giving birth to a child outside the state in
30 order to secure a fee in excess of that permitted under s.
31 63.097 when it is the intention that the child be placed for

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1 adoption outside the state.

2 (6) It is unlawful for any adoption entity
3 ~~intermediary~~ to obtain a preliminary home study or final home
4 investigation and fail to disclose the existence of the study
5 to the court.

6 (7) A person who violates any provision of this
7 section, excluding paragraph (1)(h), is guilty of a felony of
8 the third degree, punishable as provided in s. 775.082, s.
9 775.083, or s. 775.084. A person who violates paragraph
10 (1)(h) is guilty of a misdemeanor of the second degree,
11 punishable as provided in s. 775.083; and each day of
12 continuing violation shall be considered a separate offense.

13 Section 103. Section 63.072, Florida Statutes, is
14 repealed.

15 Section 104. Any petition for adoption filed before
16 October 1, 1998, shall be governed by the law in effect at the
17 time the petition was filed.

18
19 (Redesignate subsequent sections.)

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

23 And the title is amended as follows:

24 On page 6, lines 4-29, delete those lines

25
26 and insert:

27 process; renumbering and amending s. 39.461,
28 F.S., relating to petition for termination of
29 parental rights, and filing and elements
30 thereof; removing provisions authorizing
31 licensed child-placing agencies to file actions

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1 to terminate parental rights; creating s.
2 39.803, F.S.; providing procedures when the
3 identity or location of the parent is unknown
4 after filing a petition for termination of
5 parental rights; renumbering s. 39.4627, F.S.,
6 relating to penalties for false statements of
7 paternity; renumbering and amending s. 39.463,
8 F.S., relating to petitions and pleadings for
9 which no answer is required; deleting
10 references to licensed child-placing agencies;
11 renumbering and amending s. 39.464, F.S.,
12 relating to grounds for termination of paternal
13 rights; renumbering and amending s. 39.465,
14 F.S., relating to right to counsel and
15 appointment of a guardian ad litem; renumbering
16 and amending s. 39.466, F.S., relating to
17 advisory hearings; renumbering and amending s.
18 39.467, F.S., relating to adjudicatory
19 hearings; renumbering and amending s. 39.4612,
20 F.S., relating to the manifest best interests
21 of the child; renumbering and amending s.
22 39.469, F.S., relating to powers of disposition
23 and order of disposition; renumbering and
24 amending s. 39.47, F.S., relating to
25 postdisposition relief; providing additional
26 requirements for a petition for adoption;
27 prohibiting filing such petition until the
28 order terminating parental rights is final;
29 amending s. 63.022, F.S.; revising legislative
30 intent with respect to adoptions in this state;
31 amending s. 63.032, F.S.; revising definitions;

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1 defining the term "adoption entity"; creating
2 s. 63.037, F.S.; exempting adoption proceedings
3 that result from a termination of parental
4 rights under ch. 39, F.S., from certain
5 provisions of ch. 63, F.S.; creating s. 63.038,
6 F.S.; providing criminal penalties for
7 committing certain fraudulent acts; creating s.
8 63.039, F.S.; providing sanctions and an award
9 of attorney's fees under certain circumstances;
10 amending s. 63.052, F.S.; providing for
11 placement of a minor pending adoption;
12 specifying the jurisdiction of the court over a
13 minor who has been placed for adoption;
14 amending s. 63.062, F.S.; specifying additional
15 persons who must consent to an adoption,
16 execute an affidavit of nonpaternity, or
17 receive notice of proceedings to terminate
18 parental rights; permitting an affidavit of
19 nonpaternity under certain circumstances;
20 amending s. 63.082, F.S.; revising requirements
21 for executing a consent to an adoption;
22 providing a time period for withdrawing
23 consent; providing additional disclosure
24 requirements; amending s. 63.085, F.S.;
25 specifying information that must be disclosed
26 to persons seeking to adopt a minor and to the
27 birth parents; creating s. 63.087, F.S.;
28 requiring that a separate proceeding be
29 conducted by the court to determine whether a
30 birth parent's parental rights should be
31 terminated; providing for rules, jurisdiction,

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1 and venue for such proceedings; providing
2 requirements for the petition and hearing;
3 creating s. 63.088, F.S.; providing
4 requirements for identifying and locating a
5 person who is required to consent to an
6 adoption or receive notice of proceedings to
7 terminate parental rights; providing
8 requirements for the notice; providing
9 requirements for conducting a diligent search
10 for such person whose location is unknown;
11 requiring that an unlocated or unidentified
12 person be served notice by constructive
13 service; providing that failure to respond or
14 appear constitutes grounds to terminate
15 parental rights pending adoption; creating s.
16 63.089, F.S.; providing procedures for the
17 proceeding to terminate parental rights pending
18 adoption; specifying the matters to be
19 determined; specifying grounds upon which
20 parental rights may be terminated; providing
21 for procedures following a judgment; providing
22 for records to be made part of the subsequent
23 adoption; amending s. 63.092, F.S.; providing
24 requirements to be met if a prospective
25 placement in an adoptive home is an at-risk
26 placement; defining at-risk placement; amending
27 s. 63.097, F.S.; revising requirements for the
28 court in approving specified fees and costs;
29 amending s. 63.102, F.S.; revising requirements
30 for filing a petition for adoption; providing
31 requirements for prior approval of fees and

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1 costs; amending s. 63.112, F.S.; revising
2 requirements for the information that must be
3 included in a petition for adoption; amending
4 s. 63.122, F.S.; revising the time requirements
5 for hearing a petition for adoption; amending
6 s. 63.125, F.S., relating to the final home
7 investigation; conforming provisions to changes
8 made by the act; amending s. 63.132, F.S.;
9 revising requirements for the report of
10 expenditures and receipts which is filed with
11 the court; amending s. 63.142, F.S.; specifying
12 circumstances under which a judgment
13 terminating parental rights pending adoption is
14 voidable; providing for an evidentiary hearing
15 to determine the minor's placement following a
16 motion to void such a judgment; amending s.
17 63.152, F.S.; requiring that the clerk of the
18 court mail a copy of a new birth record to the
19 state registry of adoption information;
20 amending s. 63.165, F.S.; requiring that a copy
21 of the certified statement of final decree of
22 adoption be included in the state registry of
23 adoption information; requiring that the
24 Department of Children and Family Services
25 maintain such information for a specified
26 period; amending s. 63.182, F.S.; requiring
27 that an action to vacate an order of adoption
28 or an order terminating parental rights pending
29 adoption be filed within a specified period
30 after entry of the order; amending s. 63.207,
31 F.S.; revising provisions that limit the

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1 placement of a minor in another state for
2 adoption; amending s. 63.212, F.S., relating to
3 prohibitions and penalties with respect to
4 adoptions; conforming provisions to changes
5 made by the act; repealing s. 63.072, F.S.,
6 relating to persons who may waive required
7 consent to an adoption; requiring that a
8 petition for adoption be governed by the law in
9 effect at the time the petition is filed;
10 creating s. 39.813,

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