

Bill No. CS for SB 2244

Amendment No.

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Dudley moved the following amendment:		
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13	Senate Amendment (with title amendment)		
14	On page 69, line 20, delete that line		
15			
16	and insert:		
17	Section 34. Section 39.461, Florida Statutes, is		
18	amended to read:		
19	39.461 Petition for termination of parental rights.--		
20	(1) All proceedings seeking an adjudication to		
21	terminate parental rights pursuant to this chapter must be		
22	initiated by the filing of an original petition by the		
23	department, the guardian ad litem, or a licensed child-placing		
24	agency or by any other person who has knowledge of the facts		
25	alleged or is informed of them and believes that they are		
26	true.		
27	(2) The form of the petition is governed by the		
28	Florida Rules of Juvenile Procedure. The petition must be in		
29	writing and signed by the petitioner <u>or, if the department is</u>		
30	<u>the petitioner, by an employee of the department, under oath</u>		
31	stating the petitioner's good faith in filing the petition.		

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

4 Section 35. Section 39.464, Florida Statutes, as
5 amended by section 12 of chapter 97-276, Laws of Florida, is
6 amended to read:

7 39.464 Grounds for termination of parental rights.--

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

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

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

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 The surrender and consent may be withdrawn after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

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

31 (c) When the parent or parents engaged in conduct

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

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

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

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

30 3. The court determines by clear and convincing
 31 evidence that continuing the parental relationship with the

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

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

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

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

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

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1 after the entry of a disposition order placing the custody of
2 the child with the department or a person other than the
3 parent and the subsequent filing with the court of a case plan
4 with a goal of reunification with the parent.

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

11 Section 36. Subsections (2) and (8) of section 39.469,
12 Florida Statutes, are amended to read:

13 39.469 Powers of disposition; order of disposition.--

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

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

31 Section 37. Section 39.47, Florida Statutes, is

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1 amended to read:

2 39.47 Postdisposition ~~Post disposition~~ relief.--

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

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

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

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

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

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1 terminating parental rights.

2 Section 38. Section 63.022, Florida Statutes, is
3 amended to read:

4 63.022 Legislative intent.--

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

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

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

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

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

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

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

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

29 (g) Social and medical information concerning the
30 minor child and the birth parents is furnished by the birth
31 parent when available and filed with the court before a final

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1 hearing on a petition to terminate parental rights pending
 2 adoption consent to the adoption when a minor is placed by an
 3 intermediary.

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

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

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

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

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

21 Section 39. Section 63.032, Florida Statutes, is
 22 amended to read:

23 63.032 Definitions.--As used in this chapter act,
 24 ~~unless the context otherwise requires,~~ the term:

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

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

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

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

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

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

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

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

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

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

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

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1 familial relationship between the child and the prospective
2 placement;and the compatibility of the child with the home in
3 which the child is intended to be placed.

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

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

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

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

31 Section 40. Section 63.037, Florida Statutes, is

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1 created to read:

2 63.037 Proceedings applicable to cases resulting from
3 a termination of parental rights under chapter 39.--A case in
4 which a minor becomes available for adoption after the
5 parental rights of each parent have been terminated by a court
6 order issued pursuant to chapter 39 will be governed by s.
7 39.47 and this chapter. Adoption proceedings filed under
8 chapter 39 are exempt from the following provisions of this
9 chapter: disclosure requirements for the adoption entity
10 provided in s. 63.085; general provisions governing
11 termination of parental rights pending adoption provided in s.
12 63.087; notice and service provisions governing termination of
13 parental rights pending adoption provided in s. 63.088; and
14 procedures for terminating parental rights pending adoption
15 provided in s. 63.089.

16 Section 41. Section 63.038, Florida Statutes, is
17 created to read:

18 63.038 Prohibited acts.--A person who knowingly and
19 willfully provides false information under this chapter or
20 who, with the intent to defraud, accepts benefits related to
21 the same pregnancy from more than one agency or intermediary
22 without disclosing that fact to each entity commits a
23 misdemeanor of the second degree, punishable as provided in s.
24 775.082 or s. 775.083. In addition to any other penalty or
25 liability allowed by law, a person who knowingly and willfully
26 provides false information under this chapter or who, with
27 intent to defraud, accepts benefits related to the same
28 pregnancy from more than one agency or intermediary without
29 disclosing that fact to each entity and to any prospective
30 adoptive parent providing sums for the payment of the benefits
31 is liable for sums paid by anyone who paid sums permitted

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

5 Section 42. Section 63.039, Florida Statutes, is
6 created to read:

7 63.039 Duty of adoption entity to prospective adoptive
8 parents; sanctions.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Section 43. Section 63.052, Florida Statutes, is
23 amended to read:

24 63.052 Guardians designated; proof of commitment.--

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

31 (2) For minors who have been voluntarily surrendered

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

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

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1 provisions of s. 627.6578 shall remain in effect
2 notwithstanding the guardianship provisions in this section.

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

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

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

28 (6) Unless otherwise authorized by law, the department
29 is not responsible for expenses incurred by licensed
30 child-placing agencies or intermediaries participating in
31 placement of a minor child for the purposes of adoption.

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

12 Section 44. Section 63.062, Florida Statutes, is
 13 amended to read:

14 63.062 Persons required to consent to adoption.--

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

21 (a) The mother of the minor.

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

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

25 2. The minor is his child by adoption;—

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

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

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

3 ~~1.4. He~~ Has acknowledged in writing, signed in the
4 presence of a competent witness, that he is the father of the
5 minor and has filed such acknowledgment with the Office of
6 Vital Statistics of the Department of Health;

7 ~~2.5. He~~ Has provided the child or the mother during
8 her pregnancy with support in a repetitive, customary manner;

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

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

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

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

28
29
30
31

AFFIDAVIT OF NONPATERNITY

1. I have personal knowledge of the facts

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stated herein.

2. I have been told that has a child. I shall not establish or claim paternity for this child.

3. The child noted herein was not conceived or born while the birth mother was married to me. I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I intend to marry the birth mother.

4. I have not provided the birth mother with child support or prebirth support; I have not provided her with prenatal care nor assisted her with medical expenses; I have not provided the birth mother or her child or unborn child with support of any kind, nor do I intend to do so.

5. I have no interest in assuming the responsibilities of parenthood for this child. I will not acknowledge in writing to be the father of this child nor institute court proceedings to establish the child to be mine.

6. I do not object to any decision or arrangements ... makes regarding this child, including adoption.

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

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

(a) Any person lawfully entitled to custody of the

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1 minor; or

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

5 ~~(4)(3)~~ The petitioner must make good faith and
6 diligent efforts as provided under s. 63.088 to notify, and
7 obtain written consent from, the persons required to consent
8 to adoption under s. 63.062 ~~within 60 days after filing the~~
9 ~~petition. These efforts may include conducting interviews and~~
10 ~~record searches to locate those persons, including verifying~~
11 ~~information related to location of residence, employment,~~
12 ~~service in the Armed Forces, vehicle registration in this~~
13 ~~state, and corrections records.~~

14 ~~(5)(4)~~ If parental rights to the minor have previously
15 been terminated, a licensed child-placing agency or the
16 department with which the minor ~~child~~ has been placed for
17 subsequent adoption may provide consent to the adoption. In
18 such case, no other consent is required.

19 ~~(6)(5)~~ A petition to adopt an adult may be granted if:

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

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

26 Section 45. Section 63.082, Florida Statutes, is
27 amended to read:

28 63.082 Execution of consent or affidavit of
29 nonpaternity; family medical history; withdrawal of consent.--

30 (1) Consent or an affidavit of nonpaternity shall be
31 executed as follows:

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

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

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

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

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

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

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1 petition to terminate parental rights pending adoption and
2 included in the final home study filed under s. 63.125.

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

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

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

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

- 23 1. 48 hours from the time of the minor's birth; or
24 2. The day the birth mother is determined in writing,
25 either on a patient chart or in release paperwork to be fit
26 for release from a licensed hospital or birth center;
27 whichever is sooner.

28
29 A consent executed under this paragraph is valid upon
30 execution and thereafter may only be withdrawn when the court
31 finds that it was obtained by fraud or under duress.

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

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

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1 boldfaced type, an acknowledgement of the birth parent's
2 rights in substantially the following form:

3
4 YOU DO NOT HAVE TO SIGN THIS CONSENT FORM. YOU
5 HAVE THE RIGHT TO DO ANY OF THE FOLLOWING
6 INSTEAD OF SIGNING THIS CONSENT OR BEFORE
7 SIGNING THIS CONSENT:

- 8
9 (A) CONSULT WITH AN ATTORNEY;
10 (B) HOLD, CARE FOR, AND FEED THE CHILD;
11 (C) PLACE THE CHILD IN FOSTER CARE OR WITH ANY
12 FRIEND OR FAMILY MEMBER YOU CHOOSE WHO IS
13 WILLING TO CARE FOR YOUR CHILD;
14 (D) TAKE THE CHILD HOME; AND
15 (E) FIND OUT ABOUT THE COMMUNITY RESOURCES
16 THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO
17 THROUGH WITH THE ADOPTION.

18
19 IF YOU DO SIGN THIS CONSENT, YOU ARE
20 RELINQUISHING ALL RIGHTS TO YOUR CHILD. YOUR
21 CONSENT IS VALID AND BINDING UNLESS WITHDRAWN
22 AS PERMITTED BY LAW. WHEN RELINQUISHING YOUR
23 RIGHTS TO A CHILD WHO IS TO BE PLACED FOR
24 ADOPTION UNDER S. 63.052, F.S., UPON THE
25 MINOR'S RELEASE FOLLOWING BIRTH FROM A LICENSED
26 HOSPITAL OR BIRTH CENTER, A WAITING PERIOD WILL
27 BE IMPOSED BEFORE YOU MAY SIGN THE CONSENT FOR
28 ADOPTION. YOU WILL BE REQUIRED TO WAIT 48 HOURS
29 FROM THE TIME OF BIRTH, OR UNTIL THE BIRTH
30 MOTHER HAS BEEN NOTIFIED IN WRITING, EITHER ON
31 HER CHART OR IN RELEASE PAPERS THAT SHE IS FIT

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1 TO BE RELEASED FROM A LICENSED HOSPITAL OR
2 BIRTHING CENTER, WHICHEVER IS SOONER, BEFORE
3 YOU MAY SIGN THE CONSENT FOR ADOPTION. ONCE YOU
4 HAVE SIGNED THE CONSENT, IT IS VALID AND
5 BINDING AND CANNOT BE WITHDRAWN UNLESS A COURT
6 FINDS THAT IT WAS OBTAINED THROUGH FRAUD OR
7 UNDER DURESS. IF YOU ARE RELINQUISHING YOUR
8 RIGHTS TO A CHILD WHO IS NOT PLACED UNDER S.
9 63.052, F.S., UPON THE MINOR'S RELEASE
10 FOLLOWING BIRTH FROM A LICENSED HOSPITAL OR
11 BIRTH CENTER, THE CONSENT MAY BE EXECUTED AT
12 ANY TIME AFTER THE BIRTH OF THE MINOR. WHILE
13 SUCH CONSENT IS VALID UPON EXECUTION, IT IS
14 SUBJECT TO A 3-DAY REVOCATION PERIOD.
15
16 WHEN THE REVOCATION PERIOD APPLIES, YOU MAY
17 WITHDRAW YOUR CONSENT FOR ANY REASON IF YOU DO
18 SO WITHIN 3 BUSINESS DAYS AFTER THE DATE YOU
19 SIGNED THE CONSENT OR 1 BUSINESS DAY AFTER THE
20 DATE OF THE BIRTH MOTHER'S DISCHARGE FROM A
21 LICENSED HOSPITAL OR BIRTH CENTER, WHICHEVER IS
22 LATER.
23
24 YOU MAY DO THIS BY NOTIFYING THE ADOPTION
25 ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR
26 CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER
27 AT A UNITED STATES POST OFFICE AND ASKING THAT
28 THE LETTER BE SENT BY CERTIFIED UNITED STATES
29 MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3
30 BUSINESS DAYS AFTER THE DATE YOU SIGNED THE
31 CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE

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

10
11 THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:
12 ...(Name of Adoption Entity)..., ...(Address of
13 Adoption Entity)..., ...(Phone Number of
14 Adoption Entity).... FOLLOWING 3 BUSINESS DAYS
15 AFTER THE DATE YOU SIGNED THE CONSENT OR 1
16 BUSINESS DAY AFTER THE DATE OF THE BIRTH
17 MOTHER'S DISCHARGE FROM A LICENSED HOSPITAL OR
18 BIRTH CENTER, WHICHEVER IS LATER, YOU MAY
19 WITHDRAW YOUR CONSENT ONLY IF YOU CAN PROVE IN
20 COURT THAT CONSENT WAS OBTAINED BY FRAUD OR
21 DURESS.

22
23 (5) Before any consent to adoption or affidavit of
24 nonpaternity is executed by a birth parent, but after the
25 birth of the child, all requirements of disclosure under s.
26 63.085 must be met.

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

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

10 (7)(5) Consent executed under subsection (4) paragraph
11 (c) may be withdrawn for any reason by notifying the adoption
12 entity in writing by certified United States mail, return
13 receipt requested, not later than 3 business days after
14 execution of the consent or 1 business day after the date of
15 the birth mother's discharge from a licensed hospital or birth
16 center, whichever occurs later. As used in this subsection,
17 the term "business day" means a day on which the United States
18 Post Office accepts certified mail for delivery. Upon
19 receiving written notice from a person of that person's desire
20 to withdraw consent, the adoption entity must contact the
21 prospective adoptive parent to arrange a time certain for the
22 adoption entity to regain physical custody of the child,
23 unless upon motion for emergency hearing by the adoption
24 entity, the court determines in written findings that
25 placement of the minor with the person withdrawing consent may
26 endanger the minor. If the court finds that such placement may
27 endanger the minor, the court must enter an order regarding
28 continued placement of the child. The order shall include, but
29 not be limited to, whether temporary placement in foster care
30 is appropriate, whether an investigation by the Department of
31 Children and Families is recommended, and whether a relative

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

16 Section 46. Section 63.085, Florida Statutes, is
17 amended to read:

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

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

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ADOPTION DISCLOSURE

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

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

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

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

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

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1 Thereafter, consent may be withdrawn only if
2 the court finds that consent was obtained by
3 fraud. An affidavit of nonpaternity, once
4 executed, may be withdrawn only if the court
5 finds that it was obtained by fraud.

6 4. Under section 63.082, Florida
7 Statutes, a person who signs a consent or
8 affidavit of nonpaternity for adoption must be
9 given reasonable notice of his or her right to
10 select a person who does not have a
11 partnership, employment, agency, or other
12 professional or personal relationship with the
13 adoption entity or the prospective adoptive
14 parents to be present when the consent or
15 affidavit of nonpaternity is executed and to
16 sign the consent or affidavit as a witness.

17 5. Under section 63.088, Florida
18 Statutes, specific and extensive efforts are
19 required by law to attempt to obtain the
20 consents required under section 63.062, Florida
21 Statutes. If these efforts are unsuccessful, an
22 order terminating parental rights pending
23 adoption may not be issued by the court until
24 those requirements have been met and an
25 affidavit of service has been filed with the
26 court.

27 6. Under Florida law, an intermediary may
28 represent the legal interests of only the
29 adoptive parents, not of any birth parent. Each
30 person whose consent to an adoption is required
31 under section 63.062, Florida Statutes,

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

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

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

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

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

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

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

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

29 13. Each birth parent and adoptive parent
30 is entitled to independent legal advice and
31 representation. Attorney information may be

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

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

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

13
14 (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
15 must obtain a written statement acknowledging receipt of the
16 disclosure required under subsection (1) and signed by the
17 persons receiving the disclosure or, if it is not possible to
18 obtain such an acknowledgement, the adoption entity must
19 execute an affidavit stating why an acknowledgement could not
20 be obtained. A copy of the acknowledgement of receipt of the
21 disclosure must be provided to the person signing it. A copy
22 of the acknowledgement or affidavit executed by the adoption
23 entity in lieu of the acknowledgement must be maintained in
24 the file of the adoption entity. The original acknowledgement
25 or affidavit must be filed with the court. In the case of a
26 disclosure provided under subsection (1), the original
27 acknowledgement or affidavit must be included in the
28 preliminary home study required in s. 63.092(3).

29 (3) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.--Before
30 execution of any consent to adoption by a birth parent, but
31 after the birth of the minor, all requirements of subsections

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1 (1) and (2) for making certain disclosures to a birth parent
2 and obtaining a written acknowledgment of receipt must be
3 repeated.

4 Section 47. Section 63.087, Florida Statutes, is
5 created to read:

6 63.087 Proceeding to terminate parental rights pending
7 adoption; general provisions.--

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

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

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

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

31 (5) PREREQUISITE FOR ADOPTION.--A petition for

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

6 (6) PETITION.--

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

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

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

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

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

30 (f) The petition must include:

31 1. The minor's name, gender, date of birth, and place

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

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

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

19 a. The minor's mother;

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

22 c. Any legal custodian of the minor.

23
24 If a required name or address is not known, the petition must
25 so state.

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

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

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

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

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

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

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

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

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

20 Section 48. Section 63.088, Florida Statutes, is
21 created to read:

22 63.088 Proceeding to terminate parental rights pending
23 adoption; notice and service.--

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

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1 than 7 days after the date any money is provided as permitted
2 under this chapter by the adoption entity for the benefit of
3 the person seeking to place a minor for adoption.

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

14
15 NOTICE OF PETITION AND HEARING
16 TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION
17

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

28
29 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
30 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
31 THE COURT OR TO APPEAR AT THIS HEARING

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1 CONSTITUTES GROUNDS UPON WHICH THE COURT SHALL
2 END ANY PARENTAL RIGHTS YOU MAY HAVE REGARDING
3 THE MINOR CHILD.

4
5 (3) REQUIRED INQUIRY.--In all cases filed under this
6 section, the court must conduct the following inquiry of the
7 person who is placing the minor for adoption and of any
8 relative or custodian of the minor who is present at the
9 hearing and likely to have the following information:

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

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

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

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

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

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

26
27 The information required under this subsection may be provided
28 to the court in the form of a sworn affidavit by a person
29 having personal knowledge of the facts, addressing each
30 inquiry enumerated in this subsection. The inquiry required
31 under this subsection may be conducted before the birth of the

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1 minor.

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

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

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

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

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

25 (e) Names and addresses of relatives to the extent
26 such can be reasonably obtained from the petitioner or other
27 sources, contacts with those relatives, and inquiry as to the
28 person's last known address. The petitioner shall pursue any
29 leads of any addresses where the person may have moved.
30 Relatives include, but are not limited to, parents, brothers,
31 sisters, aunts, uncles, cousins, nieces, nephews,

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1 grandparents, great grandparents, former in-laws, stepparents,
2 and stepchildren;
3 (f) Information as to whether or not the person may
4 have died, and if so, the date and location;
5 (g) Telephone listings in the area where the person
6 last resided;
7 (h) Inquiries of law enforcement agencies in the area
8 where the person last resided;
9 (i) Highway patrol records in the state where the
10 person last resided;
11 (j) Department of Corrections records in the state
12 where the person last resided;
13 (k) Hospitals in the area where the person last
14 resided;
15 (l) Records of utility companies, including water,
16 sewer, cable TV, and electric companies in the area where the
17 person last resided;
18 (m) Records of the Armed Forces of the United States
19 as to whether there is any information as to the person;
20 (n) Records of the tax assessor and tax collector in
21 the area where the person last resided; and
22 (o) Search of one Internet data bank locator service.
23
24 Any person contacted by a petitioner who is requesting
25 information pursuant to this subsection must release the
26 requested information to the petitioner, except when
27 prohibited by law, without the necessity of a subpoena or
28 court order. An affidavit of diligent search executed by the
29 petitioner and the adoption entity must be filed with the
30 court confirming completion of each aspect of the diligent
31 search enumerated in this subsection and specifying the

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1 results. The diligent search required under this subsection
2 may be conducted before the birth of the minor.

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

25 Section 49. Section 63.089, Florida Statutes, is
26 created to read:

27 63.089 Proceeding to terminate parental rights pending
28 adoption.--

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

31 (2) HEARING PREREQUISITES.--The court may hold the

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1 hearing only when:

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

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

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

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

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

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

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

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

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

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

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

30 (a) Has executed a valid consent that has not been
31 withdrawn under s. 63.082 and the consent was obtained

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1 according to the requirements of this chapter;

2 (b) Has executed an affidavit of nonpaternity and the
3 affidavit was obtained according to the requirements of this
4 chapter;

5 (c) Has been properly served notice of the proceeding
6 in accordance with the requirements of this chapter and has
7 failed to file a written answer or appear at the evidentiary
8 hearing resulting in the order terminating parental rights
9 pending adoption;

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

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

15 (f) Is a legal guardian or lawful custodian of the
16 person to be adopted, other than a parent, who has failed to
17 respond in writing to a request for consent for a period of 60
18 days or, after examination of his or her written reasons for
19 withholding consent, is found by the court to be withholding
20 his or her consent unreasonably; or

21 (g) Is the spouse of the person to be adopted who has
22 failed to consent, and the failure of the spouse to consent to
23 the adoption is excused by reason of prolonged and unexplained
24 absence, unavailability, incapacity, or circumstances that are
25 found by the court to constitute unreasonable withholding of
26 consent.

27 (4) FINDING OF ABANDONMENT.--A finding of abandonment
28 resulting in a termination of parental rights must be based
29 upon clear and convincing evidence. A finding of abandonment
30 may not be based upon a lack of emotional support to a birth
31 mother during her pregnancy.

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

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

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

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

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

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

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

31 (b) The child has been abandoned when the parent of a

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

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

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

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

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

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

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

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

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

31 (c) A judgment terminating parental rights pending

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

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

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

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1 establish that person's paternity of the minor.

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

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

14 Section 50. Section 63.092, Florida Statutes, is
15 amended to read:

16 63.092 Report to the court of intended placement by an
17 intermediary; preliminary study.--

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

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

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

3 (3)(2) PRELIMINARY HOME STUDY.--Before placing the
4 minor in the intended adoptive home, a preliminary home study
5 must be performed by a licensed child-placing agency, a
6 licensed professional, or agency described in s. 61.20(2),
7 unless the petitioner is a stepparent, a spouse of the birth
8 parent, or a relative. The preliminary study shall be
9 completed within 30 days after the receipt by the court of the
10 adoption entity's intermediary's report, but in no event may
11 the minor child be placed in the prospective adoptive home
12 prior to the completion of the preliminary study unless
13 ordered by the court. If the petitioner is a stepparent, a
14 spouse of the birth parent, or a relative, the preliminary
15 home study may be required by the court for good cause shown.
16 The department is required to perform the preliminary home
17 study only if there is no licensed child-placing agency,
18 licensed professional, or agency described in s. 61.20(2), in
19 the county where the prospective adoptive parents reside. The
20 preliminary home study must be made to determine the
21 suitability of the intended adoptive parents and may be
22 completed prior to identification of a prospective adoptive
23 minor child. A favorable preliminary home study is valid for
24 1 year after the date of its completion. A minor may child
25 ~~must~~ not be placed in an intended adoptive home before a
26 favorable preliminary home study is completed unless the
27 adoptive home is also a licensed foster home under s. 409.175.
28 The preliminary home study must include, at a minimum:
29 (a) An interview with the intended adoptive parents;
30 (b) Records checks of the department's central abuse
31 registry under chapter 415 and statewide criminal records

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

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1 Section 51. Section 63.097, Florida Statutes, is
2 amended to read:

3 63.097 Fees.--

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

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

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

17 (b) Reasonable and necessary medical expenses.

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

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

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

27 (f) The following professional fees:

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

31 2. A reasonable hourly fee for contact with the birth

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

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

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

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

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

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

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

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

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

29 2. Cumulative expenses in excess of a total of \$500
30 related to the minor, the pregnancy, a birth parent, or
31 adoption proceeding which are incurred prior to the date the

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1 prospective adoptive parent retains the adoption entity.

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

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

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

19 ~~(5)(2) FEES FOR AGENCIES OR THE DEPARTMENT.--When an~~
20 ~~intermediary uses the services of a licensed child-placing~~
21 ~~agency, a professional, any other person or agency pursuant to~~
22 ~~s. 63.092, or, if necessary, the department, the person~~
23 ~~seeking to adopt the child must pay the licensed child-placing~~
24 ~~agency, professional, other person or agency, or the~~
25 ~~department an amount equal to the cost of all services~~
26 ~~performed, including, but not limited to, the cost of~~
27 ~~conducting the preliminary home study, counseling, and the~~
28 ~~final home investigation. The court, upon a finding that the~~
29 ~~person seeking to adopt the child is financially unable to pay~~
30 ~~that amount, may order that such person pay a lesser amount.~~

31 Section 52. Section 63.102, Florida Statutes, is

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1 amended to read:

2 63.102 Filing of petition; venue; proceeding for
3 approval of fees and costs.--

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

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

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

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

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1 petition for adoption may be filed in a different county,
2 provided the substantive rights of any person will not thereby
3 be affected.

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

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

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

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

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

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

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

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

27 Section 53. Section 63.112, Florida Statutes, is
28 amended to read:

29 63.112 Petition for adoption; description; report or
30 recommendation, exceptions; mailing.--

31 (1) A sufficient number of copies of the petition for

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1 adoption shall be signed and verified by the petitioner and
2 filed with the clerk of the court so that service may be made
3 under subsection (4) and shall state:

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

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

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

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

11 (e) The marital status of the petitioner, including
12 the date and place of marriage, if married, and divorces, if
13 any;

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

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

19 (h) The case style and date of entry of the order
20 terminating parental rights or the judgment declaring a minor
21 available for adoption name and address, if known, of any
22 person whose consent to the adoption is required, but who has
23 not consented, and facts or circumstances that excuse the lack
24 of consent; and

25 (i) The reasons why the petitioner desires to adopt
26 the person.

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

29 (a) A certified copy of the court order terminating
30 parental rights under chapter 39 or the judgment declaring a
31 minor available for adoption under this chapter ~~The required~~

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1 ~~consents, unless consent is excused by the court.~~

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

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

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

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

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

16
17 ~~The court may waive the requirement for an interview with the~~
18 ~~birth mother or birth father in the investigation for good~~
19 ~~cause shown.~~

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

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

28 Section 54. Section 63.122, Florida Statutes, is
29 amended to read:

30 63.122 Notice of hearing on petition.--

31 (1) After the petition to adopt a minor is filed, the

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

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

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

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

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

24 ~~(b) The intermediary.~~

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

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

29 (5) After filing the petition to adopt an adult, a
30 notice of the time and place of the hearing must be given to
31 any person whose consent to the adoption is required but who

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1 has not consented. The court may order an appropriate
2 investigation to assist in determining whether the adoption is
3 in the best interest of the persons involved.

4 Section 55. Section 63.125, Florida Statutes, is
5 amended to read:

6 63.125 Final home investigation.--

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

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

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

31 (4) The department, the licensed child-placing agency,

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

6 (5) The final home investigation must include:

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

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

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

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

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

19 Section 56. Section 63.132, Florida Statutes, is
20 amended to read:

21 63.132 Affidavit ~~Report~~ of expenditures and
22 receipts.--

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

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

31 (b) The affidavit must itemize ~~containing a full~~

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

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

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

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1 court of the exact expenses incurred.

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

6
 7 The affidavit must state whether any of these expenses were or
 8 are eligible to be paid for by collateral sources, including,
 9 but not limited to, health insurance, Medicaid, Medicare, or
 10 public assistance.

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

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

19 (a) Contrary to this chapter;

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

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

25 (4)(3) This section does not apply to an adoption by a
 26 stepparent whose spouse is a birth natural or adoptive parent
 27 of the minor child.

28 Section 57. Section 63.142, Florida Statutes, is
 29 amended to read:

30 63.142 Hearing; judgment of adoption.--

31 (1) APPEARANCE.--The petitioner and the person to be

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1 adopted shall appear at the hearing on the petition for
2 adoption, unless:

3 (a) The person is a minor under 12 years of age; ~~or~~

4 (b) The presence of either is excused by the court for
5 good cause.

6 (2) CONTINUANCE.--The court may continue the hearing
7 from time to time to permit further observation,
8 investigation, or consideration of any facts or circumstances
9 affecting the granting of the petition.

10 (3) DISMISSAL.--

11 (a) If the petition is dismissed, the court shall
12 determine the person that is to have custody of the minor.

13 (b) If the petition is dismissed, the court shall
14 state with specificity the reasons for the dismissal.

15 (4) JUDGMENT.--At the conclusion of the hearing, after
16 ~~when~~ the court determines that the date for a birth parent to
17 file an appeal of a valid judgment terminating that birth
18 parent's parental rights has passed and no appeal is pending
19 ~~all necessary consents have been obtained~~ and that the
20 adoption is in the best interest of the person to be adopted,
21 a judgment of adoption shall be entered.

22 (a) A judgment terminating parental rights pending
23 adoption is voidable and any later judgment of adoption of
24 that minor is voidable if, upon the motion of the birth
25 parent, the court finds that any person knowingly gave false
26 information that prevented the birth parent from timely making
27 known his or her desire to assume parental responsibilities
28 toward the minor or meeting the requirements under this
29 chapter to exercise his or her parental rights. A motion under
30 this paragraph must be filed with the court that entered the
31 original judgment. The motion must be filed within a

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1 reasonable time, but not later than 1 year after the date the
2 termination of parental rights final order was entered.

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

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

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

28 Section 58. Section 63.152, Florida Statutes, is
29 amended to read:

30 63.152 Application for new birth record.--Within 30
31 days after entry of a judgment of adoption, the clerk of the

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

11 Section 59. Section 63.165, Florida Statutes, is
12 amended to read:

13 63.165 State registry of adoption information; duty to
14 inform and explain.--Notwithstanding any other law to the
15 contrary, the department shall maintain a registry with the
16 last known names and addresses of an adoptee and his or her
17 birth ~~natural~~ parents and adoptive parents; the certified
18 statement of the final decree of adoption provided by the
19 clerk of the court under s. 63.152;and any other identifying
20 information ~~that~~ ~~which~~ the adoptee, birth ~~natural~~ parents, or
21 adoptive parents desire to include in the registry. The
22 department shall maintain the registry records for the time
23 required by rules adopted by the department in accordance with
24 this chapter or for 99 years, whichever period is greater.The
25 registry shall be open with respect to all adoptions in the
26 state, regardless of when they took place. The registry shall
27 be available for those persons choosing to enter information
28 therein, but no one shall be required to do so.

29 (1) Anyone seeking to enter, change, or use
30 information in the registry, or any agent of such person,
31 shall present verification of his or her identity and, if

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

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

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

31 Section 60. Section 63.182, Florida Statutes, is

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1 amended to read:

2 (Substantial rewording of section. See
 3 s. 63.182, F.S., for present text.)
 4 63.182 Statute of repose.--An action or proceeding of
 5 any kind to vacate, set aside, or otherwise nullify an order
 6 of adoption or an underlying order terminating parental rights
 7 on any ground, including fraud or duress, must be filed within
 8 1 year after entry of the order terminating parental rights.

9 Section 61. Section 63.207, Florida Statutes, is
 10 amended to read:

11 63.207 Out-of-state placement.--

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

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

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

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

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

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

15 Section 62. Section 63.212, Florida Statutes, is
16 amended to read:

17 63.212 Prohibited acts; penalties for violation.--

18 (1) It is unlawful for any person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 a. That the volunteer mother agrees to become pregnant

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

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

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

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

27 e. That the intended father and intended mother
28 acknowledge that they may not receive custody or the parental
29 rights under the agreement if the volunteer mother terminates
30 the agreement or if the volunteer mother rescinds her consent
31 to place her child for adoption within 7 days after birth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 f. "Parties" means the intended father and intended
31 mother, the volunteer mother and her husband, if she has a

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1 husband, who are all parties to the preplanned adoption
2 agreement.

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

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

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

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

29 (3) It is unlawful for any adoption entity
30 ~~intermediary~~ to fail to report to the court, prior to
31 placement, the intended placement of a minor child for

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

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

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

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

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

28 Section 63. Section 63.072, Florida Statutes, is
29 repealed.

30 Section 64. Any petition for adoption filed before
31 October 1, 1998, shall be governed by the law in effect at the

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1 time the petition was filed.

2 Section 65. This act shall take effect October 1,
3 1998, except that this section and sections 1 through 33 shall
4 take effect July 1, 1998.

5
6

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

8 And the title is amended as follows:

9 On page 1, line 2, delete that line

10

11 and insert:

12 An act relating to children and families;
13 amending ss. 39.461, 39.464, 39.469, F.S.,
14 relating to the petition and grounds for
15 terminating parental rights and powers of
16 disposition; removing provisions authorizing
17 licensed child-placing agencies to file actions
18 to terminate parental rights; amending s.
19 39.47, F.S.; providing additional requirements
20 for a petition for adoption; prohibiting filing
21 such petition until the order terminating
22 parental rights is final; amending s. 63.022,
23 F.S.; revising legislative intent with respect
24 to adoptions in this state; amending s. 63.032,
25 F.S.; revising definitions; defining the term
26 "adoption entity"; creating s. 63.037, F.S.;
27 exempting adoption proceedings that result from
28 a termination of parental rights under ch. 39,
29 F.S., from certain provisions of ch. 63, F.S.;
30 creating s. 63.038, F.S.; providing criminal
31 penalties for committing certain fraudulent

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1 acts; creating s. 63.039, F.S.; providing
2 sanctions and an award of attorney's fees under
3 certain circumstances; amending s. 63.052,
4 F.S.; providing for placement of a minor
5 pending adoption; specifying the jurisdiction
6 of the court over a minor who has been placed
7 for adoption; amending s. 63.062, F.S.;
8 specifying additional persons who must consent
9 to an adoption, execute an affidavit of
10 nonpaternity, or receive notice of proceedings
11 to terminate parental rights; permitting an
12 affidavit of nonpaternity under certain
13 circumstances; amending s. 63.082, F.S.;
14 revising requirements for executing a consent
15 to an adoption; providing a time period for
16 withdrawing consent; providing additional
17 disclosure requirements; amending s. 63.085,
18 F.S.; specifying information that must be
19 disclosed to persons seeking to adopt a minor
20 and to the birth parents; creating s. 63.087,
21 F.S.; requiring that a separate proceeding be
22 conducted by the court to determine whether a
23 birth parent's parental rights should be
24 terminated; providing for rules, jurisdiction,
25 and venue for such proceedings; providing
26 requirements for the petition and hearing;
27 creating s. 63.088, F.S.; providing
28 requirements for identifying and locating a
29 person who is required to consent to an
30 adoption or receive notice of proceedings to
31 terminate parental rights; providing

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1 requirements for the notice; providing
2 requirements for conducting a diligent search
3 for such person whose location is unknown;
4 requiring that an unlocated or unidentified
5 person be served notice by constructive
6 service; providing that failure to respond or
7 appear constitutes grounds to terminate
8 parental rights pending adoption; creating s.
9 63.089, F.S.; providing procedures for the
10 proceeding to terminate parental rights pending
11 adoption; specifying the matters to be
12 determined; specifying grounds upon which
13 parental rights may be terminated; providing
14 for procedures following a judgment; providing
15 for records to be made part of the subsequent
16 adoption; amending s. 63.092, F.S.; providing
17 requirements to be met if a prospective
18 placement in an adoptive home is an at-risk
19 placement; defining at-risk placement; amending
20 s. 63.097, F.S.; revising requirements for the
21 court in approving specified fees and costs;
22 amending s. 63.102, F.S.; revising requirements
23 for filing a petition for adoption; providing
24 requirements for prior approval of fees and
25 costs; amending s. 63.112, F.S.; revising
26 requirements for the information that must be
27 included in a petition for adoption; amending
28 s. 63.122, F.S.; revising the time requirements
29 for hearing a petition for adoption; amending
30 s. 63.125, F.S., relating to the final home
31 investigation; conforming provisions to changes

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1 made by the act; amending s. 63.132, F.S.;

2 revising requirements for the report of

3 expenditures and receipts which is filed with

4 the court; amending s. 63.142, F.S.; specifying

5 circumstances under which a judgment

6 terminating parental rights pending adoption is

7 voidable; providing for an evidentiary hearing

8 to determine the minor's placement following a

9 motion to void such a judgment; amending s.

10 63.152, F.S.; requiring that the clerk of the

11 court mail a copy of a new birth record to the

12 state registry of adoption information;

13 amending s. 63.165, F.S.; requiring that a copy

14 of the certified statement of final decree of

15 adoption be included in the state registry of

16 adoption information; requiring that the

17 Department of Children and Family Services

18 maintain such information for a specified

19 period; amending s. 63.182, F.S.; requiring

20 that an action to vacate an order of adoption

21 or an order terminating parental rights pending

22 adoption be filed within a specified period

23 after entry of the order; amending s. 63.207,

24 F.S.; revising provisions that limit the

25 placement of a minor in another state for

26 adoption; amending s. 63.212, F.S., relating to

27 prohibitions and penalties with respect to

28 adoptions; conforming provisions to changes

29 made by the act; repealing s. 63.072, F.S.,

30 relating to persons who may waive required

31 consent to an adoption; requiring that a

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1 petition for adoption be governed by the law in
2 effect at the time the petition is filed;
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