

Bill No. HB 1019, 2nd Eng.

Amendment No.     

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 Senator Dudley moved the following amendment to amendment  
12 (610944):

13  
14 **Senate Amendment (with title amendment)**

15 On page 203, line 14, through  
16 page 223, line 27, delete those lines

17  
18 and insert:

19 Section 83. Section 39.461, Florida Statutes, is  
20 renumbered as section 39.802, Florida Statutes, and amended to  
21 read:

22 39.802 ~~39.461~~ Petition for termination of parental  
23 rights; filing; elements.--

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

31 (2) The form of the petition is governed by the

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1 Florida Rules of Juvenile Procedure. The petition must be in  
2 writing and signed by the petitioner or, if the department is  
3 the petitioner, by an employee of the department, under oath  
4 stating the petitioner's good faith in filing the petition.

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

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

11 (a) That at least one of the grounds listed in s.  
12 39.806 has been met.

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

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

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

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

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1 certified copy of the order of adjudication or the order of  
2 disposition of dependency.

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

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

17 Section 84. Section 39.803, Florida Statutes, is  
18 created to read:

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

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

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

31 (b) Whether the mother was cohabiting with a male at

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1 the probable time of conception of the child.

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

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

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

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

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

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

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

29 (6) The diligent search required by subsection (5)  
30 must include, at a minimum, inquiries of all known relatives  
31 of the parent or prospective parent, inquiries of all offices

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

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

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

21 Section 85. Section 39.4627, Florida Statutes, is  
22 renumbered as section 39.804, Florida Statutes.

23 Section 86. Section 39.463, Florida Statutes, is  
24 renumbered as section 39.805, Florida Statutes, and amended to  
25 read:

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

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

7 Section 87. Section 39.464, Florida Statutes, as  
 8 amended by chapter 97-276, Laws of Florida, is renumbered as  
 9 section 39.806, Florida Statutes, and amended to read:

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

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

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

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

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

31 (b) When the identity or location of the parent or

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1 parents is unknown and, ~~if the court requires a diligent~~  
2 ~~search pursuant to s. 39.4625,~~ cannot be ascertained by  
3 diligent search ~~as provided in s. 39.4625~~ within 90 days.

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

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

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

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

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1 law of any other jurisdiction, whether that of another state,  
2 the District of Columbia, the United States or any possession  
3 or territory thereof, or any foreign jurisdiction; and

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

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

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



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1 ~~safety of the child or the child's sibling and knowingly~~  
2 ~~failed to do so.~~

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

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

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

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

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

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

30           ~~(3)~~(2) When a petition for termination of parental  
31 rights is filed under subsection (1), a separate petition for

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1 dependency need not be filed and the department need not offer  
2 the parents a case plan with a goal of reunification, but may  
3 instead file with the court a case plan with a goal of  
4 termination of parental rights to allow continuation of  
5 services until the termination is granted or until further  
6 orders of the court are issued.

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

12 Section 88. Section 39.465, Florida Statutes, is  
13 renumbered as section 39.807, Florida Statutes, and amended to  
14 read:

15 39.807 39.465 Right to counsel; guardian ad litem.--

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

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

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1 for the remainder of the proceedings.

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

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

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

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

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

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

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

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1 to all parties and the court at least 48 hours before the  
2 disposition hearing.

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

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

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

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

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

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

17 Section 89. Section 39.466, Florida Statutes, is  
18 renumbered as section 39.808, Florida Statutes, and amended to  
19 read:

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

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

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

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1           (3) The court shall set a date for an adjudicatory  
2 hearing to be held within 45 days after the advisory hearing,  
3 unless all of the necessary parties agree to some other  
4 hearing date.

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

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

20           Section 90. Section 39.467, Florida Statutes, is  
21 renumbered as section 39.809, Florida Statutes, and amended to  
22 read:

23           39.809 ~~39.467~~ Adjudicatory hearing.--

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

29           (2) The adjudicatory hearing must be held within 45  
30 days after the advisory hearing, but reasonable continuances  
31 for the purpose of investigation, discovery, or procuring

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1 counsel or witnesses may, when necessary, be granted.

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

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

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

22 Section 91. Section 39.4612, Florida Statutes, is  
23 renumbered as section 39.810, Florida Statutes, is amended to  
24 read:

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

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1 child, the court shall consider and evaluate all relevant  
2 factors, including, but not limited to:

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

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

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

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

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

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

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

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1           (8) The length of time that the child has lived in a  
2 stable, satisfactory environment and the desirability of  
3 maintaining continuity.

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

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

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

12           Section 92. Section 39.469, Florida Statutes, is  
13 renumbered as section 39.811, Florida Statutes, and amended to  
14 read:

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

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

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

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

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

31           (b) If grounds for dependency have not been



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1 established, dismiss the petition.

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

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

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

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

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

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

- 28 (a) If the child has only one surviving parent;
- 29 (b) If the identity of a prospective parent has been
- 30 established as unknown after sworn testimony;
- 31 (c) If the parent whose rights are being terminated

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1 became a parent through a single-parent adoption;

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

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

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

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

23 (8) If the court terminates parental rights, it shall,  
24 in its order of disposition, provide for a hearing, to be  
25 scheduled no later than 30 days after the date of disposition,  
26 in which the department ~~or the licensed child-placing agency~~  
27 shall provide to the court a plan for permanency for the  
28 child. Reasonable efforts must be made to place the child in a  
29 timely manner in accordance with the permanency plan, and to  
30 complete whatever steps are necessary to finalize the  
31 permanent placement of the child. Thereafter, until the

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

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

13 Section 93. Section 39.47, Florida Statutes, is  
14 renumbered as section 39.812, Florida Statutes, and amended to  
15 read:

16 39.812 39.47 Postdisposition Post-disposition  
17 relief.--

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

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

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

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

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

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

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

19 Section 94. Section 63.022, Florida Statutes, is  
20 amended to read:

21 63.022 Legislative intent.--

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

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

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

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

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1 court.

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

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

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

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

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

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

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

26 (j) The records of all proceedings concerning custody  
27 and adoption of minor children are confidential and exempt  
28 from ~~the provisions of~~ s. 119.07(1), except as provided in s.  
29 63.162.

30 (k) The birth parent, the adoptive parent, and the  
31 minor child receive the same or similar safeguards, guidance,

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1 counseling, and supervision in an intermediary adoption as  
2 they receive in an agency or department adoption.

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

7 Section 95. Section 63.032, Florida Statutes, is  
8 amended to read:

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

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

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

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

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

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

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

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

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



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1 child-placing agency licensed in another state that is  
2 qualified by the department.

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

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

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

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

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

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

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

17           Section 96. Section 63.037, Florida Statutes, is  
18 created to read:

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

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1 provided in s. 63.089.

2           Section 97. Section 63.038, Florida Statutes, is  
3 created to read:

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

22           Section 98. Section 63.039, Florida Statutes, is  
23 created to read:

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

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

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- 1       (a) Provide written initial disclosure to the adoptive  
2 parent at the time and in the manner required under s.  
3 63.085(1);
- 4       (b) Obtain a written statement by the adoptive parent  
5 acknowledging receipt of the written initial disclosure and  
6 distribute copies of that acknowledgment at the time and in  
7 the manner required under s. 63.085(3);
- 8       (c) Provide written initial and postbirth disclosure  
9 to the birth parent at the time and in the manner required  
10 under s. 63.085;
- 11       (d) Obtain a written statement by the birth parent  
12 acknowledging receipt of the written initial and postbirth  
13 disclosure and distribute copies of that acknowledgment at the  
14 time and in the manner required under s. 63.085(3);
- 15       (e) When a written consent for adoption is obtained,  
16 obtain the consent at the time and in the manner required  
17 under s. 63.082;
- 18       (f) When a written consent or affidavit of  
19 nonpaternity for adoption is obtained, obtain a consent or  
20 affidavit of nonpaternity that contains the language required  
21 under s. 63.062 or s. 63.082;
- 22       (g) Include in the petition to terminate parental  
23 rights pending adoption all information required under s.  
24 63.087(6)(e);
- 25       (h) Obtain and file the affidavit of inquiry required  
26 under s. 63.088(3);
- 27       (i) When the identity of a person whose consent to  
28 adoption is necessary under this chapter is known but the  
29 location of such a person is unknown, conduct the  
30 due-diligence search and file the affidavit required under s.  
31 63.088(4);

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

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

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

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

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

31           (5) The court must provide to The Florida Bar any

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

8 Section 99. Section 63.052, Florida Statutes, is  
 9 amended to read:

10 63.052 Guardians designated; proof of commitment.--

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

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

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1 The fact that a minor is temporarily placed with the  
2 prospective adoptive parents does not give rise to a  
3 presumption that the parental rights of the birth parents will  
4 subsequently be terminated.

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

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

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

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1 the court on the status of the minor child and the court may  
2 at that time proceed under s. 39.453 or take action reasonably  
3 necessary to protect the best interest of the minor child.

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

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

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

29 Section 100. Section 63.062, Florida Statutes, is  
30 amended to read:

31 63.062 Persons required to consent to adoption.--



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- 1           (1) Unless supported by one or more of the grounds  
 2 enumerated under s. 63.089(3) consent is excused by the court,  
 3 a petition to terminate parental rights pending adoption adopt  
 4 a minor may be granted only if written consent has been  
 5 executed as provided in s. 63.082 after the birth of the minor  
 6 or notice has been served under s. 63.088 to by:
- 7           (a) The mother of the minor.
- 8           (b) The father of the minor, if:
- 9           1. The minor was conceived or born while the father  
 10 was married to the mother;~~;~~
- 11           2. The minor is his child by adoption;~~;~~
- 12           3. The minor has been established by court proceeding  
 13 to be his child.
- 14           (c) If there is no father as set forth in subsection  
 15 (b), any man for whom the minor has been established to be his  
 16 child by scientific tests that are generally acceptable within  
 17 the scientific community to show a probability of paternity.
- 18           (d) If there is no father as set forth in subsection  
 19 (b) or subsection (c), any man who:
- 20           ~~1.4. He~~ Has acknowledged in writing, signed in the  
 21 presence of a competent witness, that he is the father of the  
 22 minor and has filed such acknowledgment with the Office of  
 23 Vital Statistics of the Department of Health;~~;~~
- 24           ~~2.5. He~~ Has provided the child or the mother during  
 25 her pregnancy with support in a repetitive, customary manner;~~;~~
- 26           3. Has been identified by the birth mother as a person  
 27 she has reason to believe may be the father of the minor in an  
 28 action to terminate parental rights pending adoption pursuant  
 29 to this chapter; or
- 30           4. Is a party in any pending proceeding in which  
 31 paternity, custody, or termination of parental rights

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1 regarding the minor is at issue.

2 (e)(e) The minor, if more than 12 years of age, unless  
 3 the court in the best interest of the minor dispenses with the  
 4 minor's consent.

5 (2) Any person whose consent is required under  
 6 paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d) may  
 7 execute an affidavit of nonpaternity in lieu of a consent  
 8 under this section and by doing so waives notice to all court  
 9 proceedings after the date of execution. An affidavit of  
 10 nonpaternity must be executed under s. 63.082 and the person  
 11 executing the affidavit must receive disclosure under s.  
 12 63.085 prior to signing the affidavit. An affidavit of  
 13 nonpaternity must be in substantially the following form:

14  
 15 AFFIDAVIT OF NONPATERNITY

- 16  
 17 1. I have personal knowledge of the facts  
 18 stated herein.  
 19 2. I have been told that ..... has a child. I  
 20 shall not establish or  
 21 claim paternity for this child.  
 22 3. The child noted herein was not conceived or  
 23 born while the birth mother was married to me.  
 24 I AM NOT MARRIED TO THE BIRTH MOTHER, nor do I  
 25 intend to marry the birth mother.  
 26 4. I have not provided the birth mother with  
 27 child support or prebirth support; I have not  
 28 provided her with prenatal care nor assisted  
 29 her with medical expenses; I have not provided  
 30 the birth mother or her child or unborn child  
 31 with support of any kind, nor do I intend to do

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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  
minor; or
- (b) The court having jurisdiction to determine custody  
of the minor, if the person having physical custody of the  
minor has no authority to consent to the adoption.

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

~~(5)(4)~~ If parental rights to the minor have previously

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1 been terminated, a licensed child-placing agency or the  
2 department with which the minor child has been placed for  
3 subsequent adoption may provide consent to the adoption. In  
4 such case, no other consent is required.

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

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

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

12 Section 101. Section 63.082, Florida Statutes, is  
13 amended to read:

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

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

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

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

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

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

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

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

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

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

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1 s. 63.088.2 (4)(a) The consent to an adoption or affidavit of  
3 nonpaternity shall not for voluntary surrender must be  
4 executed before after the birth of the minor.5 (b) A consent to adoption of a minor who is to be  
6 placed for adoption under s. 63.052 upon the minor's release  
7 following birth from a licensed hospital or birth center,  
8 shall not be executed sooner than:

- 9 1.
- 48 hours from the time of the minor's birth; or
- 
- 10 2.
- The day the birth mother is determined in writing,
- 
- 11
- either on a patient chart or in release paperwork to be fit
- 
- 12
- for release from a licensed hospital or birth center;
- 
- 13
- whichever is sooner.

14  
15 A consent executed under this paragraph is valid upon  
16 execution and thereafter may only be withdrawn when the court  
17 finds that it was obtained by fraud or under duress.18 (c) When the minor to be adopted is not placed under  
19 s. 63.052 upon the minor's release following birth from a  
20 licensed hospital or birth center, the consent may be executed  
21 at any time after the birth of the minor. While such consent  
22 is valid upon execution, it is subject to a 3-day revocation  
23 period under subsection (7).24 (d) The consent or affidavit of nonpaternity must be  
25 signed child, in the presence of two witnesses, and be  
26 acknowledged before a notary public who is not signing as one  
27 of the witnesses. The notary public must legibly note on the  
28 consent or affidavit of nonpaternity the date and time the  
29 consent or affidavit of nonpaternity was executed. The  
30 witnesses' names must be typed or printed underneath their  
31 signatures. The witnesses', and their home or business

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

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

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

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1           (E) FIND OUT ABOUT THE COMMUNITY RESOURCES  
2           THAT ARE AVAILABLE TO YOU IF YOU DO NOT GO  
3           THROUGH WITH THE ADOPTION.

4

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



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

YOU MAY DO THIS BY NOTIFYING THE ADOPTION  
ENTITY IN WRITING THAT YOU ARE WITHDRAWING YOUR  
CONSENT. YOU MAY DO THIS BY PRESENTING A LETTER  
AT A UNITED STATES POST OFFICE AND ASKING THAT  
THE LETTER BE SENT BY CERTIFIED UNITED STATES  
MAIL WITH RETURN RECEIPT REQUESTED WITHIN 3  
BUSINESS DAYS AFTER THE DATE YOU SIGNED THE  
CONSENT OR 1 BUSINESS DAY AFTER THE DATE OF THE  
BIRTH MOTHER'S DISCHARGE FROM A LICENSED  
HOSPITAL OR BIRTH CENTER, WHICHEVER IS LATER.

AS USED IN THIS SECTION, THE TERM "BUSINESS  
DAY" MEANS A DAY ON WHICH THE UNITED STATES  
POST OFFICE ACCEPTS CERTIFIED MAIL FOR  
DELIVERY. THE COST OF THIS MUST BE PAID AT THE  
TIME OF MAILING AND THE RECEIPT SHOULD BE  
RETAINED AS PROOF THAT CONSENT WAS WITHDRAWN IN  
A TIMELY MANNER.

THE ADOPTION ENTITY YOU SHOULD NOTIFY IS:  
...(Name of Adoption Entity)..., ...(Address of  
Adoption Entity)..., ...(Phone Number of  
Adoption Entity).... FOLLOWING 3 BUSINESS DAYS

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

8  
9           (5) Before any consent to adoption or affidavit of  
10          nonpaternity is executed by a birth parent, but after the  
11          birth of the child, all requirements of disclosure under s.  
12          63.085 must be met.

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

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

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





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

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

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1       affidavit of nonpaternity is executed and to  
2       sign the consent or affidavit as a witness.  
3       5. Under section 63.088, Florida  
4       Statutes, specific and extensive efforts are  
5       required by law to attempt to obtain the  
6       consents required under section 63.062, Florida  
7       Statutes. If these efforts are unsuccessful, an  
8       order terminating parental rights pending  
9       adoption may not be issued by the court until  
10       those requirements have been met and an  
11       affidavit of service has been filed with the  
12       court.  
13       6. Under Florida law, an intermediary may  
14       represent the legal interests of only the  
15       adoptive parents, not of any birth parent. Each  
16       person whose consent to an adoption is required  
17       under section 63.062, Florida Statutes,  
18       including each birth parent, is entitled to  
19       seek independent legal advice and  
20       representation before signing any document or  
21       surrendering parental rights.  
22       7. Under section 63.089, Florida  
23       Statutes, the termination of parental rights  
24       will occur simultaneously with the entry of a  
25       judgment terminating parental rights pending  
26       adoption.  
27       8. Under section 63.182, Florida  
28       Statutes, an action or proceeding of any kind  
29       to vacate, set aside, or otherwise nullify an  
30       order of adoption or an underlying order  
31       terminating parental rights pending adoption on

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1       any ground, including fraud or duress, must be  
2       filed within 1 year after entry of the order  
3       terminating parental rights pending adoption.

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

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

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



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1           Department of Children and Family Services.

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

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

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

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

31          (2) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity

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

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

21 Section 103. Section 63.087, Florida Statutes, is  
22 created to read:

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

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

30 (2) GOVERNING RULES.--The Florida Family Law Rules of  
31 Procedure govern a proceeding to terminate parental rights

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1 pending adoption unless otherwise provided by law.

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

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

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

23 (6) PETITION.--

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

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

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

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

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

16       (f) The petition must include:

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

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

31       3. Unless the consent of each person whose consent is

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1 required under s. 63.062 or an affidavit of nonpaternity is  
2 attached to the petition, the name and address or, if a  
3 specific address is unknown, the city, including the county  
4 and state in which that city is located, of:

5 a. The minor's mother;

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

8 c. Any legal custodian of the minor.

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

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

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

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

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

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

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

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

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1           (b) Be given an opportunity to deny the allegations in  
2 the petition; and

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

6           Section 104. Section 63.088, Florida Statutes, is  
7 created to read:

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

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

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

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NOTICE OF PETITION AND HEARING  
TO TERMINATE PARENTAL RIGHTS PENDING ADOPTION

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

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

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

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

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

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1           (c) Whether the mother has received payments or  
2 promises of support with respect to the minor or, because of  
3 her pregnancy, from any person she has reason to believe may  
4 be the father;

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

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

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

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

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

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

29          (b) The last known employment of the person, including  
30 the name and address of the person's employer. Inquiry should  
31 be made of the last known employer as to any address to which



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

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

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

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

16 Relatives include, but are not limited to, parents, brothers,  
17 sisters, aunts, uncles, cousins, nieces, nephews,  
18 grandparents, great grandparents, former in-laws, stepparents,  
19 and stepchildren;

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

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

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

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

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

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

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1           (l) Records of utility companies, including water,  
2 sewer, cable TV, and electric companies in the area where the  
3 person last resided;

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

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

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

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

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

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1 information required in the petition under s. 63.087(6) and  
 2 chapter 49, must contain a physical description, including,  
 3 but not limited to, age, race, hair and eye color, and  
 4 approximate height and weight of the minor's mother and of any  
 5 person the mother reasonably believes may be the father; the  
 6 minor's date of birth; and any date and city, including the  
 7 county and state in which the city is located, in which  
 8 conception may have occurred. If any of the facts that must be  
 9 included in the petition under this subsection are unknown and  
 10 cannot be reasonably ascertained, the petition must so state.

11 Section 105. Section 63.089, Florida Statutes, is  
 12 created to read:

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

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

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

19 (a) For each person whose consent is required under s.  
 20 63.062:

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

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

25 3. Notice has been provided under ss. 63.087 and  
 26 63.088;

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

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

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1           2. At least 60 days have elapsed since the first date  
2 of publication of constructive service and an affidavit of  
3 service has been filed with the court; or  
4           3. An affidavit of nonpaternity which affirmatively  
5 waives service has been executed and filed with the court;  
6           (c) The minor named in the petition has been born; and  
7           (d) The petition contains all information required  
8 under s. 63.087 and all affidavits of inquiry, due diligence,  
9 and service required under s. 63.088 have been obtained and  
10 filed with the court.  
11           (3) GROUNDS FOR TERMINATING PARENTAL RIGHTS PENDING  
12 ADOPTION.--The court may issue a judgment terminating parental  
13 rights pending adoption if the court determines by clear and  
14 convincing evidence that each person whose consent to an  
15 adoption is required under s. 63.062:  
16           (a) Has executed a valid consent that has not been  
17 withdrawn under s. 63.082 and the consent was obtained  
18 according to the requirements of this chapter;  
19           (b) Has executed an affidavit of nonpaternity and the  
20 affidavit was obtained according to the requirements of this  
21 chapter;  
22           (c) Has been properly served notice of the proceeding  
23 in accordance with the requirements of this chapter and has  
24 failed to file a written answer or appear at the evidentiary  
25 hearing resulting in the order terminating parental rights  
26 pending adoption;  
27           (d) Has abandoned the minor as abandonment is defined  
28 in s. 63.032(14);  
29           (e) Is a parent of the person to be adopted, which  
30 parent has been judicially declared incapacitated with  
31 restoration of competency found to be medically improbable;

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

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

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

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

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

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

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

30           4. Whether the person alleged to have abandoned the  
31 child, while being able, refused to pay for medical treatment

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1 when such payment was requested by the child's legal guardian  
2 or custodian and those expenses were not covered by insurance  
3 or other available sources;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (d) Not later than 30 days after the filing of a  
30 motion under this subsection, the court must conduct a  
31 preliminary hearing to determine what contact, if any, shall



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

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

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

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

31 Section 106. Section 63.092, Florida Statutes, is

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1 amended to read:

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

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

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

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

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

- 15 (a) An interview with the intended adoptive parents;
- 16 (b) Records checks of the department's central abuse  
17 registry under chapter 415 and statewide criminal records  
18 correspondence checks through the Department of Law  
19 Enforcement on the intended adoptive parents;
- 20 (c) An assessment of the physical environment of the  
21 home;
- 22 (d) A determination of the financial security of the  
23 intended adoptive parents;
- 24 (e) Documentation of counseling and education of the  
25 intended adoptive parents on adoptive parenting;
- 26 (f) Documentation that information on adoption and the  
27 adoption process has been provided to the intended adoptive  
28 parents;
- 29 (g) Documentation that information on support services  
30 available in the community has been provided to the intended  
31 adoptive parents; and

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1 (h) A copy of each the signed acknowledgement  
2 statement required by s. 63.085+ and

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

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

18 Section 107. Section 63.097, Florida Statutes, is  
19 amended to read:

20 63.097 Fees.--

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

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

29 Reasonable living expenses are rent, utilities, basic  
30 telephone service, food, necessary clothing, transportation,  
31 and items included in the affidavit filed under s. 63.132 and

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1 found by the court to be necessary for the health of the  
2 unborn child.

3 (b) Reasonable and necessary medical expenses.

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

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

11 (e) Costs associated with advertising under s.  
12 63.212(1)(h).

13 (f) The following professional fees:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 ~~medical costs, court costs, and hospital costs must be~~  
 2 ~~approved by the court prior to assessment of the fee by the~~  
 3 ~~intermediary and upon a showing of justification for the~~  
 4 ~~larger fee.~~

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

17 Section 108. Section 63.102, Florida Statutes, is  
 18 amended to read:

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

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

31 (2) A petition for adoption or for a declaratory

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1 statement as to the adoption contract shall be filed in the  
2 county where the petitioner or petitioners or the minor child  
3 resides or where the agency or intermediary with in which the  
4 minor child has been placed is located.

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

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

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

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

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



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

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

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

29 (e) If a petition for adoption is filed under this  
30 section subsequent to the filing of a petition for a  
31 declaratory statement or a petition to terminate parental

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

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

13 Section 109. Section 63.112, Florida Statutes, is  
14 amended to read:

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

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

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

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

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

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

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

31 (f) The facilities and resources of the petitioner,

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1 including those under a subsidy agreement, available to  
2 provide for the care of the minor to be adopted;

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

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

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

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

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

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

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

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

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

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

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

2

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

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

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

14 Section 110. Section 63.122, Florida Statutes, is  
15 amended to read:

16 63.122 Notice of hearing on petition.--

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

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

31 (3) Upon a showing by the petitioner that the privacy

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

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

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

10 ~~(b) The intermediary.~~

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

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

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

21 Section 111. Section 63.125, Florida Statutes, is  
22 amended to read:

23 63.125 Final home investigation.--

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

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

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

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

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

23 (5) The final home investigation must include:

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

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

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

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1 (d) Any other information relevant to the suitability  
2 of the intended adoptive home.

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

5 Section 112. Section 63.132, Florida Statutes, is  
6 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) The court must issue a separate order approving or  
31 disapproving the fees, costs, and expenditures itemized in the



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

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

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

14       Section 113. Section 63.142, Florida Statutes, is  
 15 amended to read:

16       63.142 Hearing; judgment of adoption.--

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

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

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

27       (3) DISMISSAL.--

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

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

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

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

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

31           (c) At the preliminary hearing, the court, upon the

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

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

14 Section 114. Section 63.152, Florida Statutes, is  
 15 amended to read:

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

28 Section 115. Section 63.165, Florida Statutes, is  
 29 amended to read:

30 63.165 State registry of adoption information; duty to  
 31 inform and explain.--Notwithstanding any other law to the

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

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

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1 writing.

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

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

17 Section 116. Section 63.182, Florida Statutes, is  
 18 amended to read:

19 (Substantial rewording of section. See  
 20 s. 63.182, F.S., for present text.)  
 21 63.182 Statute of repose.--An action or proceeding of  
 22 any kind to vacate, set aside, or otherwise nullify an order  
 23 of adoption or an underlying order terminating parental rights  
 24 on any ground, including fraud or duress, must be filed within  
 25 1 year after entry of the order terminating parental rights.

26 Section 117. Section 63.207, Florida Statutes, is  
 27 amended to read:

28 63.207 Out-of-state placement.--

29 (1) Unless the minor child is to be placed with a  
 30 relative within the third degree or with a stepparent, or is a  
 31 special needs child as defined in s. 409.166, an adoption

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1 ~~entity may not no person except an intermediary, an agency, or~~  
2 ~~the department shall:~~

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

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

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

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

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1           Section 118. Section 63.212, Florida Statutes, is  
2 amended to read:

3           63.212 Prohibited acts; penalties for violation.--

4           (1) It is unlawful for any person:

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

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

31           (c) Except an adoption entity ~~the Department of~~

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

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

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

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



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1 or paragraph (e).

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

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

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

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

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

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

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

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

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

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

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1 of custody is completed, or if a court determines that a  
2 parent clearly specified by the preplanned adoption agreement  
3 to be the biological parent is not the biological parent, or  
4 if the preplanned adoption is not approved by the court  
5 pursuant to the Florida Adoption Act.

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

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

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

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

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

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1 them is intended to be the biological parent of the child.

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

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

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

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

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

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

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

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

31 b. "Child" means the child or children conceived by

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1 means of an insemination that is part of a preplanned adoption  
2 arrangement.

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

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

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

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

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

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

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

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

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

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

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

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

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1 63.097 when it is the intention that the child be placed for  
2 adoption outside the state.

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

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

14 Section 119. Section 63.072, Florida Statutes, is  
15 repealed.

16 Section 120. Any petition for adoption filed before  
17 October 1, 1998, shall be governed by the law in effect at the  
18 time the petition was filed.

19  
20 (Redesignate subsequent sections.)

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

24 And the title is amended as follows:

25 On page 297, line 30, through page 298, line 24, delete  
26 those lines

27  
28 and insert:

29 process; renumbering and amending s. 39.461,  
30 F.S., relating to petition for termination of  
31 parental rights, and filing and elements

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



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1 intent with respect to adoptions in this state;  
2 amending s. 63.032, F.S.; revising definitions;  
3 defining the term "adoption entity"; creating  
4 s. 63.037, F.S.; exempting adoption proceedings  
5 that result from a termination of parental  
6 rights under ch. 39, F.S., from certain  
7 provisions of ch. 63, F.S.; creating s. 63.038,  
8 F.S.; providing criminal penalties for  
9 committing certain fraudulent acts; creating s.  
10 63.039, F.S.; providing sanctions and an award  
11 of attorney's fees under certain circumstances;  
12 amending s. 63.052, F.S.; providing for  
13 placement of a minor pending adoption;  
14 specifying the jurisdiction of the court over a  
15 minor who has been placed for adoption;  
16 amending s. 63.062, F.S.; specifying additional  
17 persons who must consent to an adoption,  
18 execute an affidavit of nonpaternity, or  
19 receive notice of proceedings to terminate  
20 parental rights; permitting an affidavit of  
21 nonpaternity under certain circumstances;  
22 amending s. 63.082, F.S.; revising requirements  
23 for executing a consent to an adoption;  
24 providing a time period for withdrawing  
25 consent; providing additional disclosure  
26 requirements; amending s. 63.085, F.S.;  
27 specifying information that must be disclosed  
28 to persons seeking to adopt a minor and to the  
29 birth parents; creating s. 63.087, F.S.;  
30 requiring that a separate proceeding be  
31 conducted by the court to determine whether a

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

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

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1 after entry of the order; amending s. 63.207,  
 2 F.S.; revising provisions that limit the  
 3 placement of a minor in another state for  
 4 adoption; amending s. 63.212, F.S., relating to  
 5 prohibitions and penalties with respect to  
 6 adoptions; conforming provisions to changes  
 7 made by the act; repealing s. 63.072, F.S.,  
 8 relating to persons who may waive required  
 9 consent to an adoption; requiring that a  
 10 petition for adoption be governed by the law in  
 11 effect at the time the petition is filed;  
 12 creating s. 39.813,

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