

By the Committee on Judiciary

308-653A-98

1 A bill to be entitled
2 An act relating to adoption; amending s. 39.01,
3 F.S.; providing factors for the court to
4 consider in determining whether a minor child
5 has been abandoned; amending s. 39.47, F.S.;
6 providing requirements for filing a petition
7 for adoption with the court; amending s.
8 63.022, F.S.; revising legislative intent with
9 respect to adoptions in this state; amending s.
10 63.032, F.S.; revising definitions; defining
11 the terms "adoption entity," "unlocated
12 parent," and "unidentified parent"; creating s.
13 63.037, F.S.; exempting adoption proceedings
14 that result from a termination of parental
15 rights from certain provisions of ch. 63, F.S.;
16 creating s. 63.38, F.S.; providing criminal
17 penalties for committing certain fraudulent
18 acts; amending s. 63.052, F.S.; providing for
19 placement of a minor pending adoption; amending
20 s. 63.062, F.S.; specifying additional persons
21 who must consent to an adoption under certain
22 circumstances; amending s. 63.082, F.S.;
23 revising requirements for executing a consent
24 to an adoption; providing additional disclosure
25 requirements; amending s. 63.085, F.S.;
26 specifying information that must be disclosed
27 to persons seeking to adopt a minor and to the
28 birth parents; creating s. 63.087, F.S.;
29 requiring that a separate proceeding be
30 conducted by the court to determine whether a
31 minor is legally available for adoption;

1 providing for rules, jurisdiction, and venue
2 for such proceedings; providing requirements
3 for the petition and hearing; creating s.
4 63.088, F.S.; providing requirements for
5 identifying and locating a person who is
6 required to consent to an adoption; providing
7 requirements for the notice; providing
8 requirements for conducting a diligent search
9 for such person whose location is unknown;
10 requiring that an unlocated or unidentified
11 person be served notice by constructive
12 service; providing that failure to respond or
13 appear constitutes grounds to declare the minor
14 available for adoption; creating s. 63.089,
15 F.S.; providing procedures for the proceeding
16 to declare a minor available for adoption;
17 specifying the matters to be determined;
18 providing for procedures following a judgment;
19 providing for records to be made part of the
20 subsequent adoption; amending s. 63.092, F.S.;
21 revising requirements for a report to the court
22 of the intended placement of a minor for
23 adoption and for the preliminary home study;
24 amending s. 63.097, F.S.; revising requirements
25 for the court in approving specified fees and
26 costs; amending s. 63.102, F.S.; revising
27 requirements for filing a petition for
28 adoption; providing that prior approval of fees
29 and costs does not obligate the birth parent to
30 relinquish a minor for adoption; amending s.
31 63.112, F.S.; revising requirements for the

1 information that must be included in a petition
2 for adoption; amending s. 63.122, F.S.;
3 revising the time requirements for hearing a
4 petition for adoption; amending s. 63.125,
5 F.S., relating to the final home investigation;
6 conforming provisions to changes made by the
7 act; amending s. 63.132, F.S.; revising
8 requirements for the report of expenditures and
9 receipts which is filed with the court;
10 amending s. 63.142, F.S.; specifying
11 circumstances under which a judgment declaring
12 a minor available for adoption is void;
13 providing for an evidentiary hearing to
14 determine the minor's placement following a
15 motion to void such a judgment; amending s.
16 63.165, F.S.; requiring that copies of a
17 petition for adoption and the social and
18 medical history be included in the state
19 registry of adoption information; requiring
20 that the Department of Children and Family
21 Services maintain such information for a
22 specified period; amending s. 63.207, F.S.;
23 revising provisions that limit the placement of
24 a minor in another state for adoption; amending
25 s. 63.212, F.S., relating to prohibitions and
26 penalties with respect to adoptions; conforming
27 provisions to changes made by the act;
28 repealing s. 63.072, F.S., relating to persons
29 who may waive required consent to an adoption;
30 requiring that a petition for adoption be
31

1 governed by the law in effect at the time the
2 petition is filed; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

5
6 Section 1. Subsection (1) of section 39.01, Florida
7 Statutes, is amended to read:

8 39.01 Definitions.--When used in this chapter:

9 (1) "Abandoned" means a situation in which the parent
10 or legal custodian of a child or, in the absence of a parent
11 or legal custodian, the person responsible for the child's
12 welfare, while being able, makes no provision for the child's
13 support and makes no effort to communicate with the child,
14 which situation is sufficient to evince a willful rejection of
15 parental obligations. If the efforts of such parent or legal
16 custodian, or person primarily responsible for the child's
17 welfare to support and communicate with the child are, in the
18 opinion of the court, only marginal efforts that do not evince
19 a settled purpose to assume all parental duties, the court may
20 declare the child to be abandoned.

21 (a) A child is not abandoned if the court finds that
22 the person alleged to have abandoned the child had a
23 compelling reason for the conduct upon which the allegation of
24 abandonment is based. In making this determination, the court
25 must consider any relevant factor, including, but not limited
26 to, the person's efforts to obtain or maintain legal or
27 physical custody of the child and the role of other persons in
28 preventing the person alleged to have abandoned the child from
29 making the efforts referenced in this subsection.

30 (b) In making a determination of abandonment the court
31 must consider:

1 1. Whether the person alleged to have abandoned the
2 child refused to provide financial support when such support
3 was requested by the child's legal guardian or custodian and
4 the person alleged to have abandoned the child had the means
5 to provide support at that time;

6 2. Whether the amount of support provided was adequate
7 to contribute to the needs of the child, taking into
8 consideration the relative means and resources available to
9 the person alleged to have abandoned the child and available
10 to the child's legal guardian or custodian during the period
11 the child allegedly was abandoned;

12 3. Whether the person alleged to have abandoned the
13 child refused to pay for medical treatment when such payment
14 was requested by the child's legal guardian or custodian, the
15 person alleged to have abandoned the child had the means to
16 provide payment for medical treatment at that time, and those
17 expenses were not covered by insurance or other available
18 sources;

19 4. Whether the child's legal guardian or custodian
20 made the child's whereabouts known to the person alleged to
21 have abandoned the child; advised that person of the needs of
22 the child and the needs of the mother of an unborn child with
23 regard to the pregnancy; and kept that person informed of
24 events such as medical appointments and tests relating to the
25 child or, if unborn, the pregnancy; and

26 5. Whether the person alleged to have abandoned the
27 child has the ability to comply with the requests of the legal
28 guardian or custodian, taking into consideration fiscal,
29 geographic, transportation, and employment constraints.

30 (c) The only conduct of a father toward a mother
31 during pregnancy that the court may consider in determining

1 whether the child was abandoned is conduct that occurred after
2 the father received actual notice that he is, or may be, the
3 father of the child.

4 (d) The term "abandoned" does not include a "child in
5 need of services" as defined in chapter 984 or a "family in
6 need of services" as defined in chapter 984. The incarceration
7 of a parent, legal custodian, or person responsible for a
8 child's welfare does not constitute a bar to a finding of
9 abandonment.

10 Section 2. Section 39.47, Florida Statutes, is amended
11 to read:

12 39.47 Postdisposition ~~Post disposition~~ relief.--

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

21 (2) In any subsequent adoption proceeding, the parents
22 and legal guardian are ~~shall~~ not ~~be~~ entitled to ~~any~~ notice of
23 the proceeding and are not ~~thereof, nor shall they be~~ entitled
24 to knowledge at any time after the order terminating parental
25 rights is entered of the whereabouts of the child or of the
26 identity or location of any person having the custody of or
27 having adopted the child, except as provided by order of the
28 court pursuant to this chapter or chapter 63; and in any
29 habeas corpus or other proceeding involving the child brought
30 by any parent or legal guardian of the child, an ~~no~~ agent of
31 the licensed child-placing agency or department may not ~~shall~~

1 | be compelled to divulge that information, but may be compelled
2 | to produce the child before a court of competent jurisdiction
3 | if the child is still subject to the guardianship of the
4 | licensed child-placing agency or department.

5 | (3) The entry of the custody order to the department
6 | or licensed child-placing agency does ~~shall~~ not entitle the
7 | licensed child-placing agency or department to guardianship of
8 | the estate or property of the child, but the licensed
9 | child-placing agency or department shall be the guardian of
10 | the person of the child.

11 | (4) The court shall retain jurisdiction over any child
12 | for whom custody is given to a licensed child-placing agency
13 | or to the department until the child is adopted. After custody
14 | of a child for subsequent adoption has been given to an agency
15 | or the department, the court has jurisdiction for the purpose
16 | of reviewing the status of the child and the progress being
17 | made toward permanent adoptive placement. As part of this
18 | continuing jurisdiction, for good cause shown by the guardian
19 | ad litem for the child if one has been appointed in a related
20 | dependency proceeding, the court may review the
21 | appropriateness of the adoptive placement of the child. The
22 | petition for adoption must be filed in the division of the
23 | circuit court which issued the judgment terminating parental
24 | rights. A copy of the consent required under s. 63.062(4) and
25 | executed by the department, or by a licensed child-placing
26 | agency, must be attached to the petition for adoption. The
27 | petition for adoption must be accompanied by a form created by
28 | the department which details the social and medical history of
29 | each birth parent, if such information is available or may be
30 | readily obtained. The person seeking to adopt the minor may
31 | not file a petition for adoption until 30 days after the final

1 order is issued terminating parental rights. An adoption
2 proceeding under this subsection is governed by chapter 63, as
3 limited under s. 63.037.

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

13 Section 3. Section 63.022, Florida Statutes, is
14 amended to read:

15 63.022 Legislative intent.--

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

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

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

24 (b) The required persons consent to the adoption or
25 the parent-child relationship is terminated by judgment of the
26 court.

27 (c) The required social studies are completed and the
28 court considers the reports of these studies prior to judgment
29 on adoption petitions.

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

1 (e) A sufficient period of time elapses during which
2 the minor ~~child~~ has lived within the proposed adoptive home
3 under the guidance of the department or a licensed
4 child-placing agency.

5 (f) All expenditures by adoption entities
6 ~~intermediaries~~ placing, and persons independently adopting, a
7 minor are reported to the court and become a permanent record
8 in the file of the adoption proceedings.

9 (g) Social and medical information concerning the
10 minor child and the birth parents is furnished by the birth
11 parent when available and filed with the court before a final
12 hearing on a petition to declare a minor available for
13 ~~adoption consent to the adoption when a minor is placed by an~~
14 ~~intermediary.~~

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

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

20 (j) The records of all proceedings concerning custody
21 and adoption of minor children are confidential and exempt
22 from ~~the provisions of~~ s. 119.07(1), except as provided in s.
23 63.162.

24 (k) The birth parent, the adoptive parent, and the
25 minor child receive the same or similar safeguards, guidance,
26 counseling, and supervision in an intermediary adoption as
27 they receive in an agency or department adoption.

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

1 Section 4. Section 63.032, Florida Statutes, is
2 amended to read:

3 63.032 Definitions.--As used in this chapter act,
4 ~~unless the context otherwise requires~~, the term:

5 (1) "Department" means the Department of Children and
6 Family Services.

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

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

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

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

14 (6) "Person" includes a natural person, corporation,
15 government or governmental subdivision or agency, business
16 trust, estate, trust, partnership, or association, and any
17 other legal entity.

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

21 (8) "Intermediary" means an attorney ~~or physician~~ who
22 is licensed or authorized to practice in this state or, for
23 the purpose of adoptive placements of children from out of
24 state with citizens of this state, a child-placing agency
25 licensed in another state that is qualified by the department.

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

30 (10) "Adoption" means the act of creating the legal
31 relationship between parent and child where it did not exist,

1 | thereby declaring the child to be legally the child of the
2 | adoptive parents and their heir at law and entitled to all the
3 | rights and privileges and subject to all the obligations of a
4 | child born to such adoptive parents in lawful wedlock.

5 | (11) "Suitability of the intended placement" includes
6 | the fitness of the intended placement, with primary
7 | consideration being given to the welfare of the child; the
8 | fitness and capabilities of the adoptive parent or parents to
9 | function as parent or parents for a particular child; any
10 | blood relationship between the child and the prospective
11 | placement;and the compatibility of the child with the home in
12 | which the child is intended to be placed.

13 | (12) "Primary residence and place of employment in
14 | Florida" means a person lives and works in this state at least
15 | 6 months of the year and intends to do so for the foreseeable
16 | future or military personnel who designate Florida as their
17 | place of residence in accordance with the Soldiers' and
18 | Sailors' Civil Relief Act of 1940 or employees of the United
19 | States Department of State living in a foreign country who
20 | designate Florida as their place of residence.

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

24 | (14) "Abandoned" means a situation in which the parent
25 | or legal custodian of a child, while being able, makes no
26 | provision for the child's support and makes no effort to
27 | communicate with the child, which situation is sufficient to
28 | evince a willful rejection of parental obligations. If, in the
29 | opinion of the court, the efforts of such parent or legal
30 | custodian to support and communicate with the child are only
31 | marginal efforts that do not evince a settled purpose to

1 assume all parental duties, the court may declare the child to
2 be abandoned. In making this decision, the court may consider
3 the conduct of a father towards the child's mother during her
4 pregnancy.

5 (15) "Adoption entity" means the department and every
6 agency and intermediary participating in the placement of a
7 person for adoption.

8 (16) "Unlocated parent" means a parent whose consent
9 to an adoption is required, but who has not filed a response
10 with the court within 60 days after the first date
11 constructive service is published under s. 63.088.

12 (17) "Unidentified parent" means a parent whose
13 consent to an adoption is required and whose identity is
14 unknown, but who has not filed a response with the court
15 within 60 days after the first date constructive service is
16 published under s. 63.088.

17 Section 5. 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 determination of the availability of a minor for adoption
29 provided in s. 63.087; notice and service provisions governing
30 determination of the availability of a minor for adoption
31

1 provided in s. 63.088; and procedures for determining a
2 minor's availability for adoption provided in s. 63.089.

3 Section 6. Section 63.038, Florida Statutes, is
4 created to read:

5 63.038 Prohibited acts.--A person who knowingly
6 provides false information under this chapter or who
7 simultaneously accepts benefits from more than one agency or
8 intermediary commits a misdemeanor of the second degree,
9 punishable as provided in s. 775.082 or s. 775.083.

10 Section 7. Section 63.052, Florida Statutes, is
11 amended to read:

12 63.052 Guardians designated; proof of commitment.--

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

19 (2) For minors who have been voluntarily surrendered
20 to an intermediary through an execution of consent to
21 adoption, the intermediary shall be responsible for the child
22 until the time a court orders preliminary approval of
23 placement of the child in the prospective adoptive home, at
24 which time the prospective adoptive parents become guardians
25 pending finalization of adoption. The minor must be placed in
26 the care of a birth relative or with a licensed child care
27 provider until the time a court orders preliminary approval of
28 placement of the minor in the prospective adoptive home.

29 ~~(2)~~ For minors who have been placed for adoption with
30 or voluntarily surrendered to an agency, but have not been
31 permanently committed to the agency, the agency shall have the

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

13 ~~(3) If a minor is surrendered to an intermediary for~~
14 ~~subsequent adoption and a suitable prospective adoptive home~~
15 ~~is not available, the intermediary shall be responsible for~~
16 ~~the child until a suitable prospective adoptive home is~~
17 ~~available.~~

18 (3)(4) If a minor child is voluntarily surrendered to
19 an intermediary for subsequent adoption and the adoption does
20 not become final within 180 days, the intermediary must report
21 to the court on the status of the minor child and the court
22 may at that time proceed under s. 39.453 or take action
23 reasonably necessary to protect the best interest of the minor
24 child.

25 (4)(5) The recital in the written consent given by the
26 department that the minor child sought to be adopted has been
27 permanently committed to the department shall be prima facie
28 proof of such commitment. The recital in the written consent
29 given by a licensed child-placing agency or the declaration in
30 an answer or recommendation filed by a licensed child-placing
31 agency that the minor child has been permanently committed and

1 the child-placing agency is duly licensed by the department
2 shall be prima facie proof of such commitment and of such
3 license.

4 ~~(5)(6)~~ Unless otherwise authorized by law, the
5 department is not responsible for expenses incurred by
6 licensed child-placing agencies or intermediaries
7 participating in placement of a minor child for the purposes
8 of adoption.

9 Section 8. Section 63.062, Florida Statutes, is
10 amended to read:

11 63.062 Persons required to consent to adoption.--

12 (1) Unless supported by one or more of the grounds
13 enumerated under s. 63.089(3)~~consent is excused by the court,~~
14 a petition to declare adopt a minor available for adoption may
15 be granted only if written consent has been executed at least
16 7 days after the birth of the minor as provided in s.
17 63.082(4)by:

18 (a) The mother of the minor.

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

20 1. The minor was conceived or born while the father
21 was married to the mother;~~;~~

22 2. The minor is his child by adoption;~~;~~

23 3. The minor has been established by court proceeding
24 to be his child;~~;~~

25 4. He has acknowledged in writing, signed in the
26 presence of a competent witness, that he is the father of the
27 minor and has filed such acknowledgment with the Office of
28 Vital Statistics of the Department of Health;~~;~~

29 5. He has provided the child with support in a
30 repetitive, customary manner;~~;~~

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1 6. He has been identified by the mother as a person
2 she has reason to believe may be the father of the minor in
3 the pleadings or proceedings in an action to declare the minor
4 available for adoption pursuant to this chapter; or

5 7. He has filed a petition to establish paternity
6 pursuant to chapter 742 or has responded to a notice of
7 proceedings to declare a minor available for adoption under s.
8 63.088.

9 (c) The minor, if more than 12 years of age, unless
10 the court in the best interest of the minor dispenses with the
11 minor's consent.

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

13 (a) Any person lawfully entitled to custody of the
14 minor; or

15 (b) The court having jurisdiction to determine custody
16 of the minor, if the person having physical custody of the
17 minor has no authority to consent to the adoption.

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

27 (4) If parental rights to the minor have previously
28 been terminated, a licensed child-placing agency or the
29 department with which the minor ~~child~~ has been placed for
30 subsequent adoption may provide consent to the adoption. In
31 such case, no other consent is required.

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

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

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

8 Section 9. Section 63.082, Florida Statutes, is
9 amended to read:

10 63.082 Execution of consent; family medical history;
11 withdrawal of consent.--

12 (1) Consent shall be executed as follows:

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

16 (b) If by an agency, by affidavit from its authorized
17 representative.

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

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

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

27 (3)(a) The department must provide a consent form and
28 a family social and medical history form to an adoption entity
29 that ~~intermediary who~~ intends to place a child for adoption.
30 The forms completed by the birth parents must be attached to
31 the petition to declare a minor available for adoption and

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

19 (b) ~~Consent executed by the department, by a licensed~~
20 ~~child-placing agency, or by an appropriate order or~~
21 ~~certificate of the court under s. 63.062(2)(b) must be~~
22 ~~attached to the petition to declare a minor available for~~
23 ~~adoption and must be accompanied by a family medical history~~
24 ~~that includes such information concerning the medical history~~
25 ~~of the child and the birth parents as is available or readily~~
26 ~~obtainable.~~

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

1 (4) The consent to an adoption may not for voluntary
2 surrender must be executed sooner than 7 days only after the
3 birth of the minor, must be executed child, in the presence of
4 two witnesses, and must be acknowledged before a notary
5 public. At least one of the witnesses must be an individual
6 who does not have a partnership, employment, agency, or other
7 professional or personal relationship with the adoption entity
8 or the prospective adoptive parents. The witnesses' names must
9 be typed or printed underneath their signatures, and their
10 home or business addresses, and social security numbers, or
11 drivers' license numbers must be included. The consent must
12 acknowledge that a birth parent has the right to:

- 13 (a) Consult with an attorney;
14 (b) Hold, care for, and feed the child;
15 (c) Place the child in foster care or family care;
16 (d) Take the child home; and
17 (e) Know the community resources that are available if
18 the birth parent does not go through with the adoption.

19 (5) Before any consent to adoption is executed by a
20 birth parent, but after the birth of the child, all
21 requirements of disclosure under s. 63.085 must be met.

22 (6) A copy of each consent signed in an action for
23 declaration of availability of a minor for adoption must be
24 provided to each person whose consent is required under s.
25 63.062. Unless the person is an unlocated parent or
26 unidentified parent as defined in s. 63.032, the copy of each
27 consent must be hand delivered, with a written acknowledgement
28 of receipt signed by the person whose consent is required, or
29 mailed by first class United States mail to the address of
30 record in the court file. The original consent and
31 acknowledgment of receipt, or the acknowledgment of mailing by

1 the adoption entity, must be filed with the petition for
2 declaration of availability of a minor for adoption.~~The~~
3 ~~absence of a social security number shall not be deemed to~~
4 ~~invalidate the consent.~~

5 (7)(5) Consent may be withdrawn only when the court
6 finds that the consent was obtained by fraud or duress.

7 Section 10. Section 63.085, Florida Statutes, is
8 amended to read:

9 (Substantial rewording of section. See
10 s. 63.085, F.S., for present text.)

11 63.085 Disclosure by adoption entity.--

12 (1) DISCLOSURE REQUIRED TO PERSONS SEEKING TO
13 ADOPT.--Not later than 7 days after a person seeking to adopt
14 a minor initially contacts an adoption entity, the entity must
15 provide a written disclosure statement to the person in
16 substantially the following form:

17
18 ADOPTION DISCLOSURE

19
20 THE STATE OF FLORIDA REQUIRES THAT THIS FORM BE
21 PROVIDED TO ALL PERSONS CONSIDERING ADOPTION TO
22 ADVISE THEM OF THE FOLLOWING FACTS REGARDING
23 ADOPTION UNDER FLORIDA LAW:

24
25 1. Under section 63.212, Florida
26 Statutes, the existence of a placement or
27 adoption contract signed by the birth parent or
28 adoptive parent, prior approval of that
29 contract by the court, or payment of any
30 expenses permitted under Florida law does not
31

1 obligate anyone to sign a consent or ultimately
2 place a minor for adoption.

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

9 3. Under section 63.082, Florida
10 Statutes, a consent for adoption which is
11 executed under section 63.082, Florida
12 Statutes, is binding from the time of the entry
13 of a judgment declaring a minor available for
14 adoption, unless it is shown that the consent
15 was obtained by fraud or duress.

16 4. Under section 63.082, Florida
17 Statutes, a consent for adoption may not be
18 signed until at least 7 days after the birth of
19 the minor.

20 5. Under section 63.088, Florida
21 Statutes, specific and extensive efforts are
22 required by law to attempt to obtain the
23 consents required under section 63.062, Florida
24 Statutes. If these efforts are unsuccessful, an
25 order declaring a minor available for adoption
26 may not be issued by the court until the person
27 has remained unlocated and unidentified, as
28 defined in section 61.032, Florida Statutes,
29 for 60 days after those requirements have been
30 met and an affidavit of service has been filed
31 with the court.

- 1 6. Under Florida law, an intermediary
2 only represents the legal interests of the
3 adoptive parents, not any birth parent. Each
4 person whose consent to an adoption is required
5 under section 63.062, Florida Statutes,
6 including each birth parent, is entitled to
7 seek independent legal advice and
8 representation before signing any document or
9 surrendering parental rights.
- 10 7. Under section 63.089, Florida
11 Statutes, the termination of parental rights
12 will occur simultaneously with the entry of a
13 judgment declaring the minor available for
14 adoption.
- 15 8. Under section 63.182, Florida
16 Statutes, for 1 year after the entry of a
17 judgment of adoption, any irregularity or
18 procedural defect in the adoption proceeding
19 may be the subject of an appeal contesting the
20 validity of the judgment.
- 21 9. Under section 63.089, Florida
22 Statutes, a judgment declaring a minor
23 available for adoption is void and any later
24 judgment of adoption of that minor is void if,
25 upon the motion of a birth father, the court
26 finds that any person knowingly gave false
27 information that prevented the birth father
28 from timely making known his desire to assume
29 parental responsibilities toward the minor or
30 meeting the requirements under chapter 63,
31 Florida Statutes, to exercise his parental

1 rights. A motion under section 63.089, Florida
2 Statutes, must be filed with the court
3 originally entering the judgment. The motion
4 must be filed within a reasonable time, but not
5 later than 1 year after the date the judgment
6 to which the motion is directed was entered.

7 10. Under section 63.165, Florida
8 Statutes, the State of Florida maintains a
9 registry of adoption information. Information
10 about the registry is available from the
11 Department of Children and Family Services.

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

25 12. Each birth parent and adoptive parent
26 is entitled to independent legal advice and
27 representation. Attorney information may be
28 obtained from the yellow pages, The Florida
29 Bar's lawyer referral service, and local legal
30 aid offices and bar associations.

31

1 13. There are counseling services
2 available in the community to assist in making
3 a parenting decision. Consult the yellow pages.

4 14. Medical and social support is
5 available if the birth parent wishes to retain
6 parental rights and responsibilities. Consult
7 the Department of Children and Family Services.

8
9 (2) DISCLOSURE REQUIRED TO BIRTH PARENT.--An adoption
10 entity must provide to each birth parent the disclosure
11 statement required under subsection (1) within 7 days after a
12 birth parent initially contacts the adoption entity or, if a
13 birth parent did not initially contact the adoption entity,
14 within 7 days after that birth parent is identified and
15 located.

16 (3) ACKNOWLEDGMENT OF DISCLOSURE.--The adoption entity
17 must obtain a written statement acknowledging receipt of the
18 disclosure required under subsection (1) or subsection (2) and
19 signed by the persons receiving the disclosure. A copy of the
20 statement must be provided to the person signing the
21 statement, a copy must be maintained in the files of the
22 adoption entity, and a copy must be included in the
23 preliminary home study required in s. 63.092(2).

24 (4) POST-BIRTH DISCLOSURE TO BIRTH PARENTS.--Before
25 execution of any consent to adoption by a birth parent, but
26 after the birth of the minor, all requirements of subsections
27 (2) and (3) for making certain disclosures to a birth parent
28 and obtaining a written acknowledgement of receipt must be
29 repeated. Any consent obtained absent compliance with this
30 subsection is void unless the court finds, based upon clear
31 and convincing evidence in a proceeding to declare a minor

1 available for adoption, that the parent is unlocated or
2 unidentified as defined in s. 63.032 or that the mother, after
3 the birth of the minor, has vacated her last known address and
4 her new address is unknown.

5 Section 11. Section 63.087, Florida Statutes, is
6 created to read:

7 63.087 Proceeding to declare a minor available for
8 adoption; general provisions.--

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

13 (2) GOVERNING RULES.--The Florida Family Law Rules of
14 Procedure govern a proceeding to declare a minor available for
15 adoption unless otherwise provided by law.

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

23 (4) VENUE.--A petition for declaration of availability
24 of a minor for adoption must be filed in the county where the
25 minor resided for the past 6 months or, if the minor is less
26 than six months old, the county where the birth mother or
27 birth father currently resides.

28 (5) PREREQUISITE FOR ADOPTION.--A judgment declaring a
29 minor available for adoption under this chapter must be
30 entered at least 30 days before a petition for adoption may be
31 filed, unless the adoptee is an adult or the minor has been

1 the subject of a judgment terminating parental rights under
2 chapter 39.

3 (6) PETITION.--

4 (a) A proceeding seeking to declare a minor available
5 for adoption pursuant to this chapter must be commenced by the
6 filing of an original petition, no sooner than 7 days after
7 the birth of the minor as provided in s. 63.082(4).

8 (b) The petition may be filed by a birth parent or
9 legal guardian of the minor or by an adoption entity.

10 (c) The petition must be entitled: In the Matter of
11 Declaration of the Availability of ... (name of minor) ... for
12 Adoption. The minor must be designated in the caption by the
13 minor's legal name at the time of the filing of the petition
14 to allow interested parties to the action, including birth
15 parents, legal guardians, persons with custodial or visitation
16 rights to the minor, and persons entitled to notice pursuant
17 to the Uniform Child Custody Jurisdiction Act, to identify
18 their own interest in the action.

19 (d) The petition for declaration of availability for
20 adoption must be in writing and signed by the petitioner under
21 oath stating the petitioner's good faith in filing the
22 petition. A written consent or an affidavit of due diligence,
23 for each person whose consent is required under s. 63.062,
24 must be attached.

25 (e) The petition must include:

26 1. The minor's name, gender, date of birth, and place
27 of birth;

28 2. If the petition is filed before the day the minor
29 is 6 months old and if the identity or location of the birth
30 father is unknown, each city in which the birth mother resided
31

1 or traveled during the 12 months prior to the minor's birth,
2 including the county and state in which that city is located;

3 3. Unless the consent of each person whose consent is
4 required under s. 63.062 is attached to the petition, the name
5 and address or, if a specific address is unknown, the city,
6 including the county and state in which that city is located,
7 of:

8 a. The minor's mother;

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

11 c. Any legal custodian of the minor.

12
13 If a required name or address is not known, the petition must
14 so state;

15 4. All information required by the Uniform Child
16 Custody Jurisdiction Act;

17 5. A statement of the grounds under s. 63.089 upon
18 which the petition is based; and

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

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

26 Notwithstanding the filing of any answer or any pleading, the
27 minor or birth parent, at the hearing to declare availability
28 for adoption, 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;

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

3 (c) Be given the opportunity to challenge the validity
4 of any consents signed by that party.

5 Section 12. Section 63.088, Florida Statutes, is
6 created to read:

7 63.088 Proceeding to declare a minor available for
8 adoption; notice and service.--

9 (1) INITIATE LOCATION AND IDENTIFICATION
10 PROCEDURES.--When the location or identity of a person whose
11 consent to an adoption is required but is not known, the
12 adoption entity must begin the inquiry and diligent search
13 process required by this section not later than 7 days after
14 its initial contact with a person wishing to place a minor
15 with the entity for adoption.

16 (2) LOCATION AND IDENTITY KNOWN.--Before the court may
17 determine that a minor is available for adoption, and in
18 addition to the other requirements set forth in this chapter,
19 each person whose consent is required under s. 63.062 and
20 whose location and identity has been determined by compliance
21 with the procedures in this section must be personally served,
22 pursuant to chapter 48, at least 30 days before the hearing
23 with a copy of the petition to declare a minor available for
24 adoption and with notice in substantially the following form:

25
26 NOTICE OF PETITION AND HEARING
27 TO DECLARE A MINOR CHILD AVAILABLE FOR ADOPTION

28
29 A petition to declare a minor child available
30 for adoption has been filed. A copy of the
31 petition is being served with this notice.

1 There will be a hearing on the petition to
2 declare a minor child available for adoption on
3 ... (date) ... at ... (time) ... before ...
4 (judge) ... at ... (location, including
5 complete name and street address of the
6 courthouse) The court has set aside ...
7 (amount of time) ... for this hearing.

8
9 UNDER SECTION 63.089, FLORIDA STATUTES, FAILURE
10 TO FILE A WRITTEN RESPONSE TO THIS NOTICE WITH
11 THE COURT OR TO APPEAR AT THIS HEARING
12 CONSTITUTES GROUNDS UPON WHICH THE COURT MAY
13 DECLARE THAT THIS MINOR CHILD IS LEGALLY FREE
14 FOR ADOPTION. THIS COULD END ANY PARENTAL
15 RIGHTS YOU MAY HAVE REGARDING THE MINOR CHILD.

16
17 (3) LOCATION UNKNOWN OR IDENTITY UNKNOWN.--If the
18 location or identity of any person entitled to receive notice
19 under subsection (2) is unknown and a petition to determine
20 that a minor is available for adoption is filed, the court
21 must conduct the following inquiry of the person who is
22 placing the minor for adoption and of any relative or
23 custodian of the minor who is present at the hearing and
24 likely to have the following information:

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

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

30 (c) Whether the mother has received payments or
31 promises of support with respect to the minor or, because of

1 her pregnancy, from any person she has reason to believe may
2 be the father;

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

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

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

10
11 The information required under this subsection may be provided
12 to the court in the form of a sworn affidavit by a person
13 having personal knowledge of the facts, addressing each
14 inquiry enumerated in this subsection.

15 (4) LOCATION UNKNOWN; IDENTITY DETERMINED.--If the
16 inquiry by the court under subsection (3) identifies any
17 person whose consent is required under s. 63.062, and the
18 location of the person from whom consent is required is
19 unknown, the petitioner must conduct a diligent search for
20 that person, which must include the following inquiries:

21 (a) The person's current address, or any previous
22 address, through an inquiry of the United States Post Office
23 through the Freedom of Information Act.

24 (b) The last known employment of the person, including
25 the name and address of the person's employer. Inquiry should
26 be made as to any address to which wage and earnings
27 statements (W-2 forms) have been mailed. If the person is
28 eligible for a pension or profit-sharing plan, inquiry should
29 be made as to any address to which pension or other funds have
30 been mailed.

31

1 (c) Unions from which the person may have worked or
2 that governed the person's particular trade or craft.

3 (d) Regulatory agencies, including those regulating
4 licensing.

5 (e) Names and addresses of relatives, contacts with
6 those relatives, and inquiry as to the person's last known
7 address. The petitioner shall pursue any leads of any
8 addresses where the person may have moved. Relatives include,
9 but are not limited to: parents, brothers, sisters, aunts,
10 uncles, cousins, nieces, nephews, grandparents, great
11 grandparents, former in-laws, stepparents, and stepchildren.

12 (f) Information as to whether or not the person may
13 have died, and if so, the date and location.

14 (g) Telephone listings in the last known locations of
15 the person's residence.

16 (h) Inquiries of law enforcement agencies at the last
17 known residential area of the person.

18 (i) Highway patrol records.

19 (j) Department of Corrections records.

20 (k) Hospitals in the last known area of residence of
21 the person.

22 (l) Records of utility companies, including water,
23 sewer, cable TV, and electric companies.

24 (m) Records of the Armed Forces of the United States
25 as to whether there is any information as to the person.

26 (n) Records of the tax assessor and tax collector in
27 the area where the person last resided.

28 (o) Search of Internet data bank locator services.

29
30 Any person contacted by a petitioner who is requesting
31 information pursuant to this subsection must release the

1 requested information to the petitioner, except when
2 prohibited by law, without the necessity of a subpoena or
3 court order. An affidavit of diligent search executed by the
4 petitioner and the adoption entity must be filed with the
5 court confirming completion of each aspect of the diligent
6 search enumerated in this subsection and specifying the
7 results.

8 (5) LOCATION NOT DETERMINED OR IDENTITY UNKNOWN.--This
9 subsection only applies if, as to any person whose consent is
10 required under s. 63.062, the location or identity of the
11 person is unknown and the inquiry under subsection (3) fails
12 to identify the person or the due diligence search under
13 subsection (4) fails to locate the person. The unlocated or
14 unidentified person must be served notice of the petition
15 under s. 63.087(6)(e) and hearing to declare a minor available
16 for adoption by constructive service in the manner provided in
17 chapter 49 in each county identified in the petition, as
18 provided in s. 63.087(6). The notice, in addition to all
19 information required in the petition under s. 63.087(6) and
20 chapter 49, must contain a physical description, including,
21 but not limited to, age, race, hair and eye color, and
22 approximate height and weight of the minor's mother and of any
23 person the mother reasonably believes may be the father; the
24 minor's date of birth or the due date designated by the
25 mother's physician for the child's birth if unborn; and any
26 date and city, including the county and state in which the
27 city is located, in which conception may have occurred.

28 (6) FAILURE TO RESPOND OR APPEAR CONSTITUTE GROUNDS TO
29 DECLARE A MINOR AVAILABLE.--If the person served with a notice
30 under this section fails to file a written response to the
31 petition within 30 days after personal service, or 60 days

1 after the first date of publication of constructive service,
2 after all required affidavits of service are filed with the
3 court, or if the person served with notice fails to appear at
4 the hearing to determine if the minor is available for
5 adoption, the failure to either respond or appear is grounds
6 upon which a court may enter a judgment declaring that the
7 minor is legally available for adoption as to a person who
8 receives actual or constructive notice as provided in this
9 section, but fails to respond or appear.

10 Section 13. Section 63.089, Florida Statutes, is
11 created to read:

12 63.089 Proceeding to declare a minor available for
13 adoption.--

14 (1) HEARING.--The court may declare a minor available
15 for adoption only after a full evidentiary hearing.

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

18 (a) After each consent required under s. 63.062 is
19 filed with the court and at least 30 days after personal
20 service of the notice and petition have elapsed; or

21 (b) If the person is unlocated or unidentified as
22 defined in s. 63.032, not less than 60 days after the first
23 date of publication of constructive service and the filing of
24 all required affidavits of service.

25 (3) MATTERS TO BE DETERMINED.--The court may issue a
26 judgment declaring the minor available for adoption if the
27 court determines by clear and convincing evidence that:

28 (a) The minor named in the petition has been born;

29 (b) The petition contains all information required
30 under s. 63.087;

31

1 (c) All requirements of s. 63.088 regarding service
2 and notice have been completed and there is an affidavit of
3 service on file with the court for each person from whom
4 consent is required under s. 63.062; and

5 (d) One of the following grounds for declaring a minor
6 available for adoption exists:

7 1. Each person whose consent to an adoption of a minor
8 required under s. 63.062 has executed a valid consent and each
9 consent was obtained according to the requirements of this
10 chapter.

11 2. A parent whose consent to an adoption of the minor
12 is necessary, but such parent has not executed a valid consent
13 and has abandoned the minor as defined in s. 63.032(2).

14 a. A minor is not abandoned if the court finds that
15 the person alleged to have abandoned the minor had a
16 compelling reason for the conduct upon which the allegation of
17 abandonment is based. In making this determination, the court
18 must consider any relevant factor, including, but not limited
19 to, the person's efforts to obtain or maintain legal or
20 physical custody of the minor and the role of other persons in
21 preventing the person alleged to have abandoned the minor from
22 making the efforts referenced in this paragraph.

23 b. In making a determination of abandonment the court
24 must consider:

25 (I) Whether the person alleged to have abandoned the
26 minor refused to provide financial support when such support
27 was requested by the minor's legal guardian or custodian and
28 the person alleged to have abandoned the minor had the means
29 to provide support at that time;

30 (II) Whether the amount of support provided was
31 adequate to contribute to the needs of the minor, taking into

1 consideration the relative means and resources available to
2 the person alleged to have abandoned the minor and available
3 to the minor's legal guardian or custodian during the period
4 the minor allegedly was abandoned;

5 (III) Whether the person alleged to have abandoned the
6 minor refused to pay for medical treatment when such payment
7 was requested by the minor's legal guardian or custodian, the
8 person alleged to have abandoned the minor had the means to
9 provide payment for medical treatment at that time, and those
10 expenses were not paid by insurance or other available
11 sources;

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

19 (V) Whether the person alleged to have abandoned the
20 child has the ability to comply with the requests of the legal
21 guardian or custodian or, in the absence of a parent or legal
22 custodian, the person responsible for the minor's welfare,
23 taking into consideration fiscal, geographic, transportation,
24 and employment constraints.

25 c. The only conduct of a father toward a mother during
26 pregnancy that the court may consider in determining whether
27 the minor was abandoned is conduct that occurred after the
28 father received actual notice that he is, or may be, the
29 father of the minor.

30 3. A person whose consent is required under s. 63.062
31 is:

1 a. Unlocated and unidentified at least 60 days after
2 all service requirements under s. 63.088 are met and the
3 affidavit of service is filed;

4 b. A parent of the person to be adopted who has been
5 judicially declared incapacitated and for whom restoration of
6 competency is medically improbable;

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

13 d. The spouse of the person to be adopted who has
14 failed to consent and the failure of the spouse to consent to
15 the adoption is excused by reason of prolonged and unexplained
16 absence, unavailability, incapacity, or circumstances that are
17 found by the court to constitute unreasonable withholding of
18 consent.

19 4. An objection to declaring the minor available for
20 adoption has not been made during the course of the hearing or
21 in writing and filed with the court before the hearing by any
22 person whose consent is necessary for the adoption of the
23 minor.

24
25 If any of the factors enumerated in this subsection are not
26 proven by clear and convincing evidence or if any person whose
27 consent is required has not signed a consent and does not want
28 the minor placed for adoption, challenges the validity of the
29 consent, or challenges the allegations of abandonment, the
30 minor is not available for adoption and the court must dismiss
31 the case with prejudice and each birth parent's parental

1 rights remain in full force under the law. Further
2 proceedings, if any, regarding the minor must be brought in a
3 separate custody action under chapter 61, a dependency action
4 under chapter 39, or a paternity action under chapter 742.

5 (4) A JUDGMENT DETERMINING THE AVAILABILITY OF A MINOR
6 FOR ADOPTION.--

7 (a) The judgment declaring a minor available for
8 adoption must be in writing and contain findings of fact as to
9 the grounds for finding the minor to be available for
10 adoption.

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

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

27 (d) Not later than 7 days after the filing of a motion
28 under this subsection, the court must conduct an evidentiary
29 hearing to determine the minor's placement. The legal
30 presumption that a minor be placed in the care and custody of
31 his or her parent may be rebutted only upon a showing that

1 such placement would endanger the minor. The order must
2 include a provision for visitation by a parent with whom the
3 minor is not placed if that parent appeared at the hearing.
4 The order determining placement of the minor must be issued in
5 writing not later than 7 days after the hearing and must state
6 with specificity the basis for the placement and any
7 provisions regarding contact with persons other than those
8 with whom the child has been placed.

9 (5) RECORDS; CONFIDENTIAL INFORMATION.--All records
10 pertaining to a petition to declare a minor available for
11 adoption are records related to the subsequent adoption of the
12 minor and are subject to the provisions of s. 63.162, as such
13 provisions apply to records of an adoption proceeding.

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

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

18 (1) REPORT TO THE COURT.--The adoption entity
19 ~~intermediary~~ must report any intended placement of a minor for
20 adoption with any person not related within the third degree
21 or a stepparent if the adoption entity ~~intermediary~~ has
22 knowledge of, or participates in, such intended placement. The
23 minor who is the subject of the report must have been
24 adjudicated available for adoption under this chapter or had
25 the parental rights of both parents terminated under chapter
26 39.The report must be made to the court before the minor is
27 placed in the home.

28 (2) PRELIMINARY HOME STUDY.--Before placing the minor
29 in the intended adoptive home, a preliminary home study must
30 be performed by a licensed child-placing agency, a licensed
31 professional, or agency described in s. 61.20(2), unless the

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

- 23 (a) An interview with the intended adoptive parents;
24 (b) Records checks of the department's central abuse
25 registry under chapter 415 and statewide criminal records
26 correspondence checks through the Department of Law
27 Enforcement on the intended adoptive parents;
28 (c) An assessment of the physical environment of the
29 home;
30 (d) A determination of the financial security of the
31 intended adoptive parents;

1 (e) Documentation of counseling and education of the
2 intended adoptive parents on adoptive parenting;

3 (f) Documentation that information on adoption and the
4 adoption process has been provided to the intended adoptive
5 parents;

6 (g) Documentation that information on support services
7 available in the community has been provided to the intended
8 adoptive parents; and

9 (h) A copy of each ~~the~~ signed acknowledgement
10 ~~statement~~ required by s. 63.085; ~~and~~

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

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

26 Section 15. Section 63.097, Florida Statutes, is
27 amended to read:

28 63.097 Fees.--

29 (1) APPROVAL OF FEES TO ADOPTION ENTITIES
30 ~~INTERMEDIARIES~~.--Any fee of any kind over \$1,000, including
31 fees for legal services, and those costs as set out in s.

1 63.212(1)(d) over \$2,500, paid to an adoption entity
2 ~~intermediary~~ other than actual, documented medical costs,
3 court costs, and hospital costs must be approved by the court
4 prior to assessment of the fee by the adoption entity
5 ~~intermediary~~ and upon a showing of justification for the
6 larger fee. If the fee is to an agency, the court shall
7 consider the agency's fee-approval process under the rules
8 approved by the department pursuant to this chapter.

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

21 Section 16. Section 63.102, Florida Statutes, is
22 amended to read:

23 63.102 Filing of petition; venue; proceeding for
24 approval of fees and costs.--

25 (1) After a court order terminating parental rights or
26 declaring a minor available for adoption has been issued, a
27 proceeding for adoption may ~~shall~~ be commenced by filing a
28 petition entitled, "In the Matter of the Adoption of" in
29 the circuit court where the order terminating parental rights
30 or declaring a minor available for adoption was issued, unless
31 the petition for adoption was filed in a different venue in

1 accordance with ss. 63.087 and 63.102. The person to be
2 adopted shall be designated in the caption in the name by
3 which he or she is to be known if the petition is granted. ~~if~~
4 ~~the child is placed for adoption by an agency,~~Any name by
5 which the minor child was previously known may ~~shall~~ not be
6 disclosed in the petition, the notice of hearing, or the
7 judgment of adoption.

8 (2) A petition for adoption or for a declaratory
9 statement as to the adoption contract shall be filed in the
10 county where the petitioner or petitioners or the minor child
11 resides or where the agency or intermediary with ~~in~~ which the
12 minor child has been placed is located.

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

22 (4) If the filing of the petition for adoption or for
23 a declaratory statement as to the adoption contract in the
24 county where the petitioner or minor child resides would tend
25 to endanger the privacy of the petitioner or minor child, the
26 petition for adoption may be filed in a different county,
27 provided the substantive rights of any person will not thereby
28 be affected.

29 (5) A proceeding for prior approval of fees and costs
30 may be commenced any time after an agreement is reached
31 between the birth mother and the adoptive parents by filing a

1 petition for declaratory statement on the agreement entitled
2 "In the Matter of the Proposed Adoption of a Minor Child" in
3 the circuit court. If a petition for adoption is subsequently
4 filed, the petition for declaratory statement and the petition
5 for adoption must be consolidated into one case. Prior
6 approval of fees and costs by the court does not obligate the
7 birth parent to ultimately relinquish the minor for adoption.

8 Section 17. Section 63.112, Florida Statutes, is
9 amended to read:

10 63.112 Petition for adoption; description; report or
11 recommendation, exceptions; mailing.--

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

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

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

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

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

23 (e) The marital status of the petitioner, including
24 the date and place of marriage, if married, and divorces, if
25 any;

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

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

31

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

7 (i) The reasons why the petitioner desires to adopt
8 the person.

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

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

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

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

21 1. ~~The birth mother, if parental rights have not been~~
22 ~~terminated;~~

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

25 3. the minor child, if older than 12 years of age,
26 unless the court, in the best interest of the minor child,
27 dispenses with the minor's child's consent under s.
28 63.062(1)(c).

29
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1 ~~The court may waive the requirement for an interview with the~~
2 ~~birth mother or birth father in the investigation for good~~
3 ~~cause shown.~~

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

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

12 Section 18. Section 63.122, Florida Statutes, is
13 amended to read:

14 63.122 Notice of hearing on petition.--

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

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

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

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

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

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

9 ~~(b) The intermediary.~~

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

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

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

20 Section 19. Section 63.125, Florida Statutes, is
21 amended to read:

22 63.125 Final home investigation.--

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

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

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

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

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

22 (5) The final home investigation must include:

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

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

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

31

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

7 63.132 Report of expenditures and receipts.--

8 (1) At least 10 days before the hearing on the
9 petition for adoption, the petitioner and any adoption entity
10 ~~intermediary~~ must file two copies of an affidavit containing a
11 full accounting of all disbursements and receipts of anything
12 of value, including professional and legal fees, made or
13 agreed to be made by or on behalf of the petitioner and any
14 adoption entity intermediary in connection with the adoption
15 or in connection with any prior proceeding to declare a minor
16 available for adoption which involved the minor who is the
17 subject of the petition for adoption. The clerk of the court
18 shall forward a copy of the affidavit to the department. The
19 report must show any expenses or receipts incurred in
20 connection with:

21 (a) The birth of the minor.

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

23 (c) The medical or hospital care received by the
24 mother or by the minor during the mother's prenatal care and
25 confinement.

26 (d) The living expenses of the birth mother. The
27 living expenses must be documented in detail to apprise the
28 court of the exact expenses incurred.

29 (e) The services relating to the adoption or to the
30 placement of the minor for adoption that were received by or
31

1 on behalf of the petitioner, the adoption entity ~~intermediary~~,
2 either birth natural parent, the minor, or any other person.

3 (2) The court may require such additional information
4 as is deemed necessary.

5 (3) This section does not apply to an adoption by a
6 stepparent whose spouse is a birth natural or adoptive parent
7 of the minor child.

8 Section 21. Section 63.142, Florida Statutes, is
9 amended to read:

10 63.142 Hearing; judgment of adoption.--

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

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

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

17 (2) CONTINUANCE.--The court may continue the hearing
18 from time to time to permit further observation,
19 investigation, or consideration of any facts or circumstances
20 affecting the granting of the petition.

21 (3) DISMISSAL.--

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

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

26 (4) JUDGMENT.--At the conclusion of the hearing, after
27 when the court determines that at least 30 days have elapsed
28 since entry of a valid court order terminating parental rights
29 or declaring the minor available for adoption ~~all necessary~~
30 ~~consents have been obtained~~ and that the adoption is in the
31

1 best interest of the person to be adopted, a judgment of
2 adoption shall be entered.

3 (a) A judgment declaring a minor available for
4 adoption is void and any later judgment of adoption of that
5 minor is void if, upon the motion of the birth father, the
6 court finds that any person knowingly gave false information
7 that prevented the birth father from timely making known his
8 desire to assume parental responsibilities toward the minor or
9 meeting the requirements under this chapter to exercise his
10 parental rights. A motion under this paragraph must be filed
11 with the court that entered the original judgment. The motion
12 must be filed within a reasonable time, but not later than 1
13 year after the date the judgment to which the motion is
14 directed was entered.

15 (b) Not later than 7 days after the filing of a motion
16 under this subsection, the court must conduct an evidentiary
17 hearing to determine the minor's placement. The legal
18 presumption that a minor be placed in the care and custody of
19 his or her parent may be rebutted only upon a showing that
20 such placement would endanger the minor. The order must
21 include a provision for visitation by a parent with whom the
22 minor is not placed if that parent appeared at the hearing
23 under this paragraph. The order determining placement of the
24 minor must be issued in writing not later than 7 days after
25 the hearing and must state with specificity both the basis for
26 the placement and any provisions regarding contact with
27 persons other than those with whom the child has been placed.

28 Section 22. 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

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; copies of the
4 petition for adoption and the social and medical history form
5 provided to the department pursuant to this chapter;and any
6 other identifying information that ~~which~~ the adoptee, birth
7 natural parents, or adoptive parents desire to include in the
8 registry. The department shall maintain the registry records
9 for the time required by rules adopted by the department in
10 accordance with this chapter or for 99 years, whichever period
11 is greater.The registry shall be open with respect to all
12 adoptions in the state, regardless of when they took place.
13 The registry shall be available for those persons choosing to
14 enter information therein, but no one shall be required to do
15 so.

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

1 consent to release information by notifying the department in
2 writing.

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

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

18 Section 23. Section 63.207, Florida Statutes, is
19 amended to read:

20 63.207 Out-of-state placement.--

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

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

28 (b) Place or attempt to place a minor child for the
29 purpose of adoption with a family who primarily lives and
30 works outside Florida in another state. ~~An intermediary may~~
31 ~~place or attempt to place a child for adoption in another~~

1 ~~state only if the child is a special needs child as that term~~
2 ~~is defined in s. 409.166.~~ If an adoption entity intermediary
3 is acting under this subsection, the adoption entity must
4 ~~intermediary shall~~ file a petition for declaratory statement
5 pursuant to s. 63.102 for prior approval of fees and costs.
6 The court shall review the costs pursuant to s. 63.097. The
7 petition for declaratory statement must be converted to a
8 petition for an adoption upon placement of the minor child in
9 the home. The circuit court in this state must retain
10 jurisdiction over the matter until the adoption becomes final.
11 The adoptive parents must come to this state to have the
12 adoption finalized. Violation of the order subjects the
13 adoption entity intermediary to contempt of court and to the
14 penalties provided in s. 63.212.

15 (2) An adoption entity intermediary may not counsel a
16 birth mother to leave the state for the purpose of giving
17 birth to a child outside the state in order to secure a fee in
18 excess of that permitted under s. 63.097 when it is the
19 intention that the child is to be placed for adoption outside
20 the state.

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

24 Section 24. Section 63.212, Florida Statutes, is
25 amended to read:

26 63.212 Prohibited acts; penalties for violation.--

27 (1) It is unlawful for any person:

28 (a) Except an adoption entity ~~the department, an~~
29 ~~intermediary, or an agency,~~ to place or attempt to place a
30 minor child for adoption with a person who primarily lives and
31 works outside this state unless the minor child is placed with

1 a relative within the third degree or with a stepparent or is
2 a special needs child as defined in s. 409.166. An adoption
3 entity intermediary may place or attempt to place a special
4 needs child for adoption with a person who primarily lives and
5 works outside this state only if the adoption entity
6 intermediary has a declaratory statement from the court
7 establishing the fees to be paid under s. 63.207. This
8 requirement does not apply if the minor child is placed with a
9 relative within the third degree or with a stepparent.

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

23 (c) Except an adoption entity ~~the Department of~~
24 ~~Children and Family Services, an agency, or an intermediary,~~
25 to place or attempt to place within the state a minor child
26 for adoption unless the minor child is placed with a relative
27 within the third degree or with a stepparent. This
28 prohibition, however, does not apply to a person who is
29 placing or attempting to place a minor child for the purpose
30 of adoption with the adoption entity ~~Department of Children~~
31 ~~and Family Services or an agency or through an intermediary.~~

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

16 (e) Having the rights and duties of a parent with
17 respect to the care and custody of a minor to assign or
18 transfer such parental rights for the purpose of, incidental
19 to, or otherwise connected with, selling or offering to sell
20 such rights and duties.

21 (f) To assist in the commission of any act prohibited
22 in paragraph (a), paragraph (b), paragraph (c), paragraph (d),
23 or paragraph (e).

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

28 (h) Except an adoption entity ~~the Department of~~
29 ~~Children and Family Services, an agency, or an intermediary~~,
30 to advertise or offer to the public, in any way, by any medium
31 whatever that a minor child is available for adoption or that

1 a minor ~~child~~ is sought for adoption; and further, it is
2 unlawful for any person to publish or broadcast any such
3 advertisement without including a Florida license number of
4 the agency or, ~~attorney, or physician~~ placing the
5 advertisement.

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

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

26 a. Effect final transfer of custody of a child or
27 final adoption of a child, without review and approval of the
28 department and the court, and without compliance with other
29 applicable provisions of law.

30 b. Constitute consent of a mother to place her child
31 for adoption until 7 days following birth, and unless the

1 court making the custody determination or approving the
2 adoption determines that the mother was aware of her right to
3 rescind within the 7-day period following birth but chose not
4 to rescind such consent.

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

8 a. That the volunteer mother agrees to become pregnant
9 by the fertility technique specified in the agreement, to bear
10 the child, and to terminate any parental rights and
11 responsibilities to the child she might have through a written
12 consent executed at the same time as the preplanned adoption
13 agreement, subject to a right of rescission by the volunteer
14 mother any time within 7 days after the birth of the child.

15 b. That the volunteer mother agrees to submit to
16 reasonable medical evaluation and treatment and to adhere to
17 reasonable medical instructions about her prenatal health.

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

28 d. That an intended father who is also the biological
29 father acknowledges that he is aware that he will assume
30 parental rights and responsibilities for the child as
31 otherwise provided by law for a father, if the agreement is

1 terminated for any reason by any party before final transfer
2 of custody is completed or if the planned adoption is not
3 approved by the court pursuant to the Florida Adoption Act.

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

9 f. That the intended father and intended mother may
10 agree to pay all reasonable legal, medical, psychological, or
11 psychiatric expenses of the volunteer mother related to the
12 preplanned adoption arrangement, and may agree to pay the
13 reasonable living expenses of the volunteer mother. No other
14 compensation, whether in cash or in kind, shall be made
15 pursuant to a preplanned adoption arrangement.

16 g. That the intended father and intended mother agree
17 to accept custody of and to assert full parental rights and
18 responsibilities for the child immediately upon the child's
19 birth, regardless of any impairment to the child.

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

24 i. That the agreement may be terminated at any time by
25 any of the parties.

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

28 a. To reduce any amount paid to the volunteer mother
29 if the child is stillborn or is born alive but impaired, or to
30 provide for the payment of a supplement or bonus for any
31 reason.

1 b. Requiring the termination of the volunteer mother's
2 pregnancy.

3 4. An attorney who represents an intended father and
4 intended mother or any other attorney with whom that attorney
5 is associated shall not represent simultaneously a female who
6 is or proposes to be a volunteer mother in any matter relating
7 to a preplanned adoption agreement or preplanned adoption
8 arrangement.

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

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

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

22 b. "Child" means the child or children conceived by
23 means of an insemination that is part of a preplanned adoption
24 arrangement.

25 c. "Fertility technique" means artificial
26 embryonation, artificial insemination, whether in vivo or in
27 vitro, egg donation, or embryo adoption.

28 d. "Intended father" means a male who, as evidenced by
29 a preplanned adoption agreement, intends to have the parental
30 rights and responsibilities for a child conceived through a
31

1 fertility technique, regardless of whether the child is
2 biologically related to the male.

3 e. "Intended mother" means a female who, as evidenced
4 by a preplanned adoption agreement, intends to have the
5 parental rights and responsibilities for a child conceived
6 through a fertility technique, regardless of whether the child
7 is biologically related to the female.

8 f. "Parties" means the intended father and intended
9 mother, the volunteer mother and her husband, if she has a
10 husband, who are all parties to the preplanned adoption
11 agreement.

12 g. "Preplanned adoption agreement" means a written
13 agreement among the parties that specifies the intent of the
14 parties as to their rights and responsibilities in the
15 preplanned adoption arrangement, consistent with the
16 provisions of this act.

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

28 i. "Volunteer mother" means a female person at least
29 18 years of age who voluntarily agrees, subject to a right of
30 rescission, that if she should become pregnant pursuant to a
31 preplanned adoption arrangement, she will terminate in favor

1 of the intended father and intended mother her parental rights
2 and responsibilities to the child.

3 (2) This section does not ~~Nothing herein shall be~~
4 ~~construed to~~ prohibit a licensed child-placing agency from
5 charging fees reasonably commensurate to the services
6 provided.

7 (3) It is unlawful for any adoption entity
8 ~~intermediary~~ to fail to report to the court, prior to
9 placement, the intended placement of a minor child for
10 purposes of adoption with any person not a stepparent or a
11 relative within the third degree, if the adoption entity
12 ~~intermediary~~ participates in such intended placement.

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

20 (5) It is unlawful for any adoption entity
21 ~~intermediary~~ to counsel a birth mother to leave the state for
22 the purpose of giving birth to a child outside the state in
23 order to secure a fee in excess of that permitted under s.
24 63.097 when it is the intention that the child be placed for
25 adoption outside the state.

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

30 (7) A person who violates any provision of this
31 section, excluding paragraph (1)(h), is guilty of a felony of

1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084. A person who violates paragraph
3 (1)(h) is guilty of a misdemeanor of the second degree,
4 punishable as provided in s. 775.083; and each day of
5 continuing violation shall be considered a separate offense.

6 Section 25. Section 63.072, Florida Statutes, is
7 repealed.

8 Section 26. Any petition for adoption filed before
9 October 1, 1998, shall be governed by the law in effect at the
10 time the petition was filed.

11 Section 27. This act shall take effect October 1,
12 1998.

13
14 *****

15 SENATE SUMMARY

16 Revises various provisions of the Florida Adoption Act.
17 Revises the requirements for executing a consent to an
18 adoption. Requires that the Department of Children and
19 Family Services and other agencies that participate in
20 placing persons for adoption make certain disclosures to
21 persons seeking to adopt and to the birth parents of a
22 minor placed for adoption. Requires that the court hold a
23 separate proceeding before the hearing on the adoption to
24 determine whether a minor is available for adoption.
25 Provides requirements for identifying and locating
26 persons who must be notified of the proceeding. Specifies
27 grounds upon which the court may declare that a minor is
28 available for adoption. Provides requirements for the
29 court in determining whether a minor has been abandoned.
30 Revises requirements for the court in approving fees and
31 costs paid in an adoption procedure. Provides that
approval by the court of such fees and costs does not
obligate the birth parent to relinquish a minor for
adoption. Specifies circumstances under which a judgment
declaring a minor available for adoption is void.
Requires the Department of Children and Family Services
to maintain the registry of adoption information for the
period required by department rule or 99 years, whichever
period is greater. (See bill for details.)